**DFARS Case 2022-D019**

**(EO) DFARS Buy American Act Requirements**

**Final Rule**

**PART 213—SIMPLIFIED ACQUSITION PROCEDURES**

\* \* \* \* \*

**213.302-5 Clauses.**

(a) \* \* \*

(d) When using the clause at FAR 52.213-4, delete the reference to the clause at FAR 52.225-1, Buy American–Supplies. Instead, if the Buy American ~~Act~~ **[statute]** applies to the acquisition, use the clause at—

(i) 252.225-7001, Buy American ~~Act~~ and Balance of Payments Program, **[or the appropriate alternate,]** as prescribed at 225.1101(2); or

(ii) 252.225-7036, Buy American ~~Act~~–Free Trade Agreements—Balance of Payments Program, **[or the appropriate alternate,]** as prescribed at 225.1101(10).

\* \* \* \* \*

**PART 225—FOREIGN ACQUISITION**

\* \* \* \* \*

**225.003 Definitions.**

As used in this part—

\* \* \* \* \*

“Domestic end product” means—

(1) For an end product that does not consist wholly or predominantly of iron or steel or a combination of both—

(i) An unmanufactured end product mined or produced in the United States; or

(ii) An end product manufactured in the United States if—

(A) The cost of its qualifying country components and its components that are mined, produced, or manufactured in the United States exceeds ~~55~~**[60]** percent of the cost of all its components**[, except that the percentage will be 65 percent for items delivered in calendar years 2024 through 2028 and 75 percent for items delivered starting in calendar year 2029, unless an alternate percentage is established for a contract in accordance with FAR 25.101(d); or award is made before January 1, 2030, for a foreign end product that exceeds 55 percent domestic content (see 225.103(b)(ii))]**. The cost of components includes transportation costs to the place of incorporation into the end product and U.S. duty (whether or not a duty-free entry certificate is issued). Components of unknown origin are treated as foreign. Scrap generated, collected, and prepared for processing in the United States is considered domestic. A component is considered to have been mined, produced, or manufactured in the United States (regardless of its source in fact) if the end product in which it is incorporated is manufactured in the United States and the component is of a class or kind for which the Government has determined that—

(*1*) Sufficient and reasonably available commercial quantities of a satisfactory quality are not mined, produced, or manufactured in the United States; or

(*2*) It is inconsistent with the public interest to apply the restrictions of the Buy American statute; or

(B) The end product is a commercially available off-the-shelf (COTS) item; or

(2) For an end product that consists wholly or predominantly of iron or steel or a combination of both, an end product manufactured in the United States, if the cost of iron and steel not produced in the United States or a qualifying country constitutes less than 5 percent of the cost of all the components used in the end product (produced in the United States or a qualifying country means that all manufacturing processes of the iron or steel must take place in the United States or a qualifying country, except metallurgical processes involving refinement of steel additives). The cost of iron and steel not produced in the United States or a qualifying country includes but is not limited to the cost of iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings, not produced in the United States or a qualifying country, utilized in the manufacture of the end product and a good faith estimate of the cost of all iron or steel components not produced in the United States or a qualifying country, excluding COTS fasteners. Iron or steel components of unknown origin are treated as foreign. If the end product contains multiple components, the cost of all the materials used in such end product is calculated in accordance with the explanation of cost of components in paragraph (1)(ii)(A) of this definition.

\* \* \* \* \*

“Qualifying country” means a country with a reciprocal defense procurement memorandum of understanding or international agreement with the United States in which both countries agree to remove barriers to purchases of supplies produced in the other country or services performed by sources of the other country, and the memorandum or agreement complies, where applicable, with the requirements of section 36 of the Arms Export Control Act (22 U.S.C. 2776) and with 10 U.S.C. 2457. Accordingly, the following are qualifying countries: \* \* \*

“Qualifying country component” means a component mined, produced, or manufactured in a qualifying country.

“Qualifying country end product” means—

(1) An unmanufactured end product mined or produced in a qualifying country; or

(2) An end product manufactured in a qualifying country if—

(i) The cost of the following types of components exceeds ~~50~~**[60]** percent of the cost of all its components**[, except that the percentage will be 65 percent for items delivered in calendar years 2024 through 2028 and 75 percent for items delivered starting in calendar year 2029, unless an alternate percentage is established for a contract]**:

(A) Components mined, produced, or manufactured in a qualifying country.

(B) Components mined, produced, or manufactured in the United States.

(C) Components of foreign origin of a class or kind for which the Government has determined that sufficient and reasonably available commercial quantities of a satisfactory quality are not mined, produced, or manufactured in the United States. Components of unknown origin are treated as foreign; or

(ii) The end product is a COTS item.*~~Qualifying country end product~~* ~~is also defined in the clause at 252.225-7021, Trade Agreements.~~

\* \* \* \* \*

**SUBPART 225.1—BUY AMERICAN—SUPPLIES**

**225.101 General.**

(a) For DoD, the following two-part test determines whether a manufactured end product is a domestic end product:

(i) The end product is manufactured in the United States; and

(ii)(A) Except for an end product that consists wholly or predominantly of iron or steel or a combination of both, the cost of its U.S. and qualifying country components exceeds ~~55~~**[60]** percent of the cost of all its components**[, except that the percentage will be 65 percent for items delivered in calendar years 2024 through 2028 and 75 percent for items delivered starting in calendar year 2029, but see paragraph (d) of this section.]** This test is applied to end products only and not to individual components.

(B) For an end product that consists wholly or predominantly of iron or steel or a combination of both, the cost of iron and steel not produced in the United States or a qualifying country must constitute less than 5 percent of the cost of all the components used in the end product. The cost of iron and steel not produced in the United States or a qualifying country includes but is not limited to the cost of iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings, not produced in the United States or a qualifying country, utilized in the manufacture of the end product and a good faith estimate of the cost of all iron or steel components not produced in the United States or a qualifying country, excluding commercially available off-the-shelf (COTS) fasteners. The domestic content test of the Buy American statute has not been waived for acquisitions of COTS items in this category, except for COTS fasteners.

(c) \* \* \*

**[(d)(1) In lieu of the threshold increases in FAR 25.101(a)(2)(i), use the domestic content threshold increases in paragraph (a)(ii) of this section. The senior procurement executive may approve application of an alternate domestic content test, under which the domestic content threshold in effect at the time of contract award will apply to the entire period of performance of the contract, following consultation with the Office of Management and Budget’s Made in America Office. See PGI 225.101 for guidance on documentation requirements when the senior procurement executive approves application of an alternate domestic content test.**

**(2) When the senior procurement executive allows for application of an alternate domestic content test for the contract pursuant to FAR 25.101(d)(1) (but see paragraph (d)(1) of this section)—**

**(A) See 225.1101(2)(iv) for use of alternate II of the clause at 252.225-7001, Buy American and Balance of Payments Program;**

**(B) See 225.1101(2)(v) for use of alternate III of the clause at 252.225-7001, Buy American and Balance of Payments Program;**

**(C) See 225.1101(9) for use of the basic or alternate provision at 252.225-7035, Buy American—Free Trade Agreements—Balance of Payments Program Certificate, or the basic or alternate clause at 252.225-7036, Buy American—Free Trade Agreements—Balance of Payments Program; and**

**(D) See 225.1101(10)(i) for use of the basic or alternate clause at 252.225-7036, Buy American—Free Trade Agreements—Balance of Payments Program.]**

\* \* \* \* \*

**225.103 Exceptions.**

(a) \* \* \*

(b)(i) A determination that an article, material, or supply is not reasonably available is required when domestic offers are insufficient to meet the requirement and award is to be made on other than a qualifying country or eligible end product.

(ii) **[A determination is not required before January 1, 2030, if there is an offer for a foreign end product that exceeds 55 percent domestic content.]** Except as provided in FAR 25.103(b)(3), the determination shall be approved—

(A) At a level above the contracting officer for acquisitions valued at or below the simplified acquisition threshold;

\* \* \* \* \*

(c) The cost of a domestic end product is unreasonable if it is not the low evaluated offer when evaluated under ~~S~~**[s]**ubpart 225.5.

**225.10[6]~~5~~ Determining reasonableness of cost.**

(b) Use an evaluation factor of 50 percent instead of the factors specified in FAR 25.~~105~~**[106]**(b)**[(1)(i) and (c)(1)(i)].**

**225.170 Acquisition from or through other Government agencies.**

Contracting activities must apply the evaluation procedures in ~~S~~**[s]**ubpart 225.5 when using Federal supply schedules.

**subpart 225.2--buy american--construction materials**

**225.202 Exceptions.**

(a)(2) A nonavailability determination is not required for construction materials listed in FAR 25.104(a). For other materials, a nonavailability determination shall be approved at the levels specified in 225.103(b)(ii). Use the estimated value of the construction materials to determine the approval level. **[A nonavailability determination is not required before January 1, 2030, if there is an offer for foreign construction material that exceeds 55 percent domestic content (also see FAR 25.204(b)(1)(ii) and (b)(2)(ii)).]**

\* \* \* \* \*

**SUBPART 225.5--EVALUATING FOREIGN OFFERS--SUPPLY CONTRACTS**

**225.502 Application.**

\* \* \* \* \*

(c) Use the following procedures instead of those in FAR 25.502(c) for acquisitions subject to the Buy American statute or the Balance of Payments Program:

(i)(A) If the acquisition is subject only to the Buy American **[statute]** or **[the]** Balance of Payments Program, then only qualifying country end products are exempt from application of the Buy American or Balance of Payments Program evaluation factor.

(B) If the acquisition is also subject to a Free Trade Agreement, then eligible products of the applicable Free Trade Agreement country are also exempt from application of the Buy American or Balance of Payments Program evaluation factor**[, but see 225.106]**.

(ii) If price is the determining factor, use the following procedures:

(A) If the low offer is a domestic offer, award on that offer.

(B) If there are no domestic offers, award on the low offer (see example in PGI 225.504(1)).

(C) If the low offer is a foreign offer that is exempt from application of the Buy American or Balance of Payments Program evaluation factor, award on that offer. ~~(~~If the low offer is a qualifying country offer from a country listed at 225.872-1(b), execute a determination in accordance with 225.872-4~~)~~. **[A qualifying country offer is subject to the domestic content requirement for end products that are wholly or predominantly of iron or steel or a combination of both.]**

\* \* \* \* \*

**SUBPART 225.11--SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

**\* \* \* \* \***

**225.1101 Acquisition of supplies.**

(1) Use the basic or the alternate of the provision at [252.225-7000](https://www.acq.osd.mil/dpap/dars/dfars/html/current/252225.htm#252.225-7000), Buy American—Balance of Payments Program Certificate, instead of the provision at FAR 52.225-2, Buy American Certificate, in any solicitation, including solicitations using FAR part 12 procedures for the acquisition of commercial products and commercial services, that includes the basic or the alternate of the clause at [252.225-7001](https://www.acq.osd.mil/dpap/dars/dfars/html/current/252225.htm#252.225-7001), Buy American and Balance of Payments Program. ~~If the solicitation includes the provision at FAR 52.204-7, do not separately list the provision~~ [~~252.225-7000~~](https://www.acq.osd.mil/dpap/dars/dfars/html/current/252225.htm#252.225-7000) ~~in the solicitation~~.

(i) Use the basic provision when the solicitation includes the basic clause **[or alternate II of the clause]** at 252.225-7001.

(ii) Use the alternate I provision when the solicitation includes alternate I **[or alternate III]** of the clause at 252.225-7001.

(2)(i) Use the basic or ~~the~~**[an]** alternate of the clause at [252.225-7001](https://www.acq.osd.mil/dpap/dars/dfars/html/current/252225.htm#252.225-7001), Buy American ~~Act~~ and Balance of Payments Program, instead of the clause at FAR 52.225-1, Buy American—Supplies, in solicitations and contracts, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial products and commercial services, unless—

(A) All line items will be acquired from a particular source or sources under the authority of FAR 6.302-3;

(B) All line items require domestic or qualifying country end products in accordance with subpart 225.70, but note that this exception does not apply if subpart 225.70 only requires manufacture of the end product in the United States or in the United States or Canada, without a corresponding requirement for use of domestic components;

(C) The acquisition is for supplies for use within the United States and an exception to the Buy American statute applies, e.g., nonavailability or public interest (see FAR 25.103 and 225.103);

(D) The acquisition is for supplies for use outside the United States and an exception to the Balance of Payments Program applies (see 225.7501);

(E) One or more of the basic or the alternates of the following clauses will apply to all line items in the contract:

(*1*) 252.225-7021, Trade Agreements.

(*2*) 252.225-7036, Buy American—Free Trade Agreements—Balance of Payments Program; or

(F) All line items will be acquired using a procedure specified in 225.7703-1(a).

(ii) Use the basic clause if the acquisition is not of end products listed in 225.401-70 in support of operations in Afghanistan.

(iii) Use the alternate I clause when the acquisition is of end products listed in 225.401-70 in support of operations in Afghanistan.

**[(iv) Use alternate II of the clause in lieu of the basic clause in solicitations and contracts if—**

**(A) The acquisition is not of end products listed in 225.401-70 in support of operations in Afghanistan; and**

**(B) An alternate domestic content threshold will apply to the entire period of performance as approved by the senior procurement executive (see 225.101(d)).**

**(v) Use alternate III of the clause in lieu of Alternate I of the clause in solicitations and contracts if—**

**(A) The acquisition is of end products listed in 225.401-70 in support of operations in Afghanistan; and**

**(B) An alternate domestic content threshold will apply to the entire period of performance as approved by the senior procurement executive (see 225.101(d)).]**

**\* \* \* \* \***

(6) Except as provided in paragraph (6)(iv) of this section, use the basic or an alternate of the clause at 252.225–7021, Trade Agreements, instead of the clause at FAR 52.225–5, Trade Agreements, in solicitations and contracts, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial products and commercial services, if the World Trade Organization Government Procurement Agreement applies, i.e., the acquisition is of end products listed at 225.401–70, the value of the acquisition equals or exceeds $183,000, and none of the exceptions at 25.401(a) applies.

(i) Use the basic clause in solicitations and contracts that are not of end products in support of operations in Afghanistan, or that include the clause at 252.225–7024, Requirement for Products or Services from Afghanistan.

(ii) Use the alternate II clause in solicitations and contracts that do not include the clause at 252.225–7024, Requirement for Products or Services from Afghanistan, when the acquisition is of end products in support of operations in Afghanistan.

**[(iii) Use the alternate III clause in lieu of the basic clause in solicitations and contracts that are not of end products in support of operations in Afghanistan or that include the clause at 252.225-7024, Requirement for Products or Services from Afghanistan, when an alternate domestic content threshold will apply to the entire period of performance as approved by the senior procurement executive (see 225.101(d)).**

**(iv) Use the alternate IV clause in lieu of the alternate II clause in solicitations and contracts that do not include the clause at 252.225-7024, Requirement for Products or Services from Afghanistan, when—**

**(A) The acquisition is of end products in support of operations in Afghanistan; and**

**(B) An alternate domestic content threshold will apply to the entire period of performance as approved by the senior procurement executive (see 225.101(d)).]**

(**[v]**~~iii~~) Do not use the basic or an alternate of the clause if—

(A) Purchase from foreign sources is restricted, unless the contracting officer anticipates a waiver of the restriction; or

(B) The clause at 252.225–7026, Acquisition Restricted to Products or Services from Afghanistan, is included in the solicitation and contract.

(**[vi]**~~iv~~) The acquisition of eligible and noneligible products under the same contract may result in the application of trade agreements to only some of the items acquired. In such case, indicate in the Schedule those items covered by the Trade Agreements clause.

\* \* \* \* \*

(9) Use the basic or an alternate of the provision at 252.225-7035, Buy American—Free Trade Agreements—Balance of Payments Program Certificate, instead of the provision at FAR 52.225-4, Buy American—Free Trade Agreements—Israeli Trade Act Certificate, in solicitations, including solicitations using FAR part 12 procedures for the acquisition of commercial products and commercial services, that include the basic or an alternate of the clause at 252.225-7036, Buy American—Free Trade Agreements—Balance of Payments Program. ~~If the solicitation includes the provision at FAR 52.204-7, do not separately list the provision 252.225-7035 in the solicitation.~~

(i) Use the basic provision in solicitations when the basic **[or alternate VI]** of the clause at 252.225-7036 is used.

(ii) Use the alternate I provision when the solicitation includes alternate I **[or alternate VII]** of the clause at 252.225-7036.

(iii) Use the alternate II provision when the solicitation includes alternate II **[or alternate VIII]** of the clause at 252.225-7036.

(iv) Use the alternate III provision when the solicitation includes alternate III **[or alternate IX]** of the clause at 252.225-7036.

(v) Use the alternate IV provision when the solicitation includes alternate IV **[or alternate X]** of the clause at 252.225-7036.

(vi) Use the alternate V provision when the solicitation includes alternate V **[or alternate XI]** of the clause at 252.225-7036.

(10)(i) Except as provided in paragraph (10)(ii) of this section, use the basic or an alternate of the clause at 252.225-7036, Buy American—Free Trade Agreements—Balance of Payments Program, instead of the clause at FAR 52.225-3, Buy American—Free Trade Agreements–Israeli Trade Act, in solicitations and contracts, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial products and commercial services, for the items listed at 225.401-70, when the estimated value is less than $183,000, unless an exception at FAR 25.401 or 225.401 applies.

(A) Use the basic clause in solicitations and contracts when the estimated value equals or exceeds $100,000, but is less than $183,000, except if the acquisition is of end products in support of operations in Afghanistan.

(B) Use the alternate I clause in solicitations and contracts when the estimated value is less than $92,319, except if the acquisition is of end products in support of operations in Afghanistan.

(C) Use the alternate II clause in solicitations and contracts when the estimated value is less than $183,000, and the acquisition is of end products in support of operations in Afghanistan.

(D) Use the alternate III clause in solicitations and contracts when the estimated value is less than $92,319, and the acquisition is of end products in support of operations in Afghanistan.

(E) Use the alternate IV clause in solicitations and contracts when the estimated value equals or exceeds $92,319 but is less than $100,000, except if the acquisition is of end products in support of operations in Afghanistan.

(F) Use the alternate V clause in solicitations and contracts when the estimated value equals or exceeds $92,319 but is less than $100,000 and the acquisition is of end products in support of operations in Afghanistan.

**[(G) Use the alternate VI clause in lieu of the basic clause in solicitations and contracts, except if the acquisition is of end products in support of operations in Afghanistan, when—**

**(*1*) The estimated value equals or exceeds $100,000 but is less than $183,000; and**

**(*2*) An alternate domestic content threshold will apply to the entire period of performance as approved by the senior procurement executive (see 225.101(d)).**

**(H) Use the alternate VII clause in lieu of the alternate I clause in solicitations and contracts, except if the acquisition is of end products in support of operations in Afghanistan, when—**

**(*1*) The estimated value is less than $92,319; and**

**(*2*) An alternate domestic content threshold will apply to the entire period of performance as approved by the senior procurement executive (see 225.101(d)).**

**(I) Use the alternate VIII clause in lieu of the alternate II clause in solicitations and contracts when—**

**(*1*) The estimated value is less than $183,000;**

**(*2*) The acquisition is of end products in support of operations in Afghanistan; and**

**(*3*) An alternate domestic content threshold will apply to the entire period of performance as approved by the senior procurement executive (see 225.101(d)).**

**(J) Use the alternate IX clause in lieu of the alternate III clause in solicitations and contracts when—**

**(*1*) The estimated value is less than $92,319;**

**(*2*) The acquisition is of end products in support of operations in Afghanistan; and**

**(*3*) An alternate domestic content threshold will apply to the entire period of performance as approved by the senior procurement executive in accordance with FAR 25.101(d).**

**(K) Use the alternate X clause in lieu of the alternate IV clause in solicitations and contracts, except if the acquisition is of end products in support of operations in Afghanistan, when—**

**(*1*) The estimated value equals or exceeds $92,319 but is less than $100,000; and**

**(*2*) An alternate domestic content threshold will apply to the entire period of performance as approved by the senior procurement executive (see 225.101(d)).**

**(L) Use the alternate XI clause in lieu of the alternate V clause in solicitations and contracts when—**

**(*1*) The estimated value equals or exceeds $92,319 but is less than $100,000;**

**(*2*) The acquisition is of end products in support of operations in Afghanistan; and**

**(*3*) An alternate domestic content threshold will apply to the entire period of performance as approved by the senior procurement executive (see 225.101(d)).]**

(ii) Do not use the basic or an alternate of the clause in paragraph (10)(i) of this section if—

(A) Purchase from foreign sources is restricted (see 225.401(a)(2)), unless the contracting officer anticipates a waiver of the restriction;

(B) Acquiring information technology that is a commercial product, using fiscal year 2004 or subsequent funds section 535 of Division F of the Consolidated Appropriations Act, 2004 (Pub. L. 108-199), and the same provision in subsequent appropriations acts); or

(C) Using a procedure specified in 225.7703-1(a).

(iii) The acquisition of eligible and noneligible products under the same contract may result in the application of a Free Trade Agreement to only some of the items acquired. In such case, indicate in the Schedule those items covered by the Buy American–Free Trade Agreements–Balance of Payments Program clause.

\* \* \* \* \*

**Subpart 225.75–Balance of Payments Program**

\* \* \* \* \*

**225.7503 Contract clauses.**

Unless the entire acquisition is exempt from the Balance of Payments Program—

(a) Use the basic or an alternate of the clause at 252.225-7044, Balance of Payments Program—Construction Material, in solicitations and contracts for construction to be performed outside the United States, including acquisitions of commercial products and commercial services or components, with an estimated value greater than the simplified acquisition threshold but less than $7,032,000.

(1) Use the basic clause unless the acquisition is in support of operations in Afghanistan.

(2) Use the alternate I clause if the acquisition is in support of operations in Afghanistan.

**[(3) Use the alternate II clause in lieu of the basic clause if an alternate domestic content threshold will apply to the entire period of performance as approved by the senior procurement executive (see 225.101(d)), unless the acquisition is in support of operations in Afghanistan.**

**(4) Use the alternate III clause in lieu of the alternate I clause if—**

**(i) The acquisition is in support of operations in Afghanistan; and**

**(ii) An alternate domestic content threshold will apply to the entire period of performance as approved by the senior procurement executive (see 225.101(d)).]**

(b) Use the basic or an alternate of the clause at 252.225-7045, Balance of Payments Program—Construction Material Under Trade Agreements, in solicitations and contracts for construction to be performed outside the United States with an estimated value of $7,032,000 or more, including acquisitions of commercial products and commercial services or components.

(1) Use the basic clause in solicitations and contracts with an estimated value of $12,001,460 or more, unless the acquisition is in support of operations in Afghanistan.

(2) Use the alternate I clause in solicitations and contracts with an estimated value of $7,032,000 or more, but less than $12,001,460 unless the acquisition is in support of operations in Afghanistan.

(3) Use the alternate II clause in solicitations and contracts with an estimated value of $12,001,460 or more and is in support of operations in Afghanistan.

(4) Use the alternate III clause in solicitations and contracts with an estimated value of $7,032,000 or more, but less than $12,001,460, and is in support of operations in Afghanistan.

**[(5) Use the alternate IV clause in lieu of the basic clause in solicitations and contracts, unless the acquisition is in support of operations in Afghanistan, when—**

**(i) The estimated value is $12,001,460 or more; and**

**(ii) An alternate domestic content threshold will apply to the entire period of performance as approved by the senior procurement executive (see 225.101(d)).**

**(6) Use the alternate V clause in lieu of the alternate I clause in solicitations and contracts, unless the acquisition is in support of operations in Afghanistan, when—**

**(i) The estimated value is $7,032,000 or more; and**

**(ii) An alternate domestic content threshold will apply to the entire period of performance as approved by the senior procurement executive (see 225.101(d)).**

**(7) Use the alternate VI clause in lieu of the alternate II clause in solicitations and contracts when—**

**(i) The estimated value is $12,001,460 or more;**

**(ii) The acquisition is in support of operations in Afghanistan; and**

**(iii) An alternate domestic content threshold will apply to the entire period of performance as approved by the senior procurement executive (see 225.101(d)).**

**(8) Use the alternate VII clause in lieu of the alternate III clause in solicitations and contracts when—**

**(i) The estimated value is $7,032,000 or more but less than $12,001,460;**

**(ii) The acquisition is in support of operations in Afghanistan; and**

**(iii) An alternate domestic content threshold will apply to the entire period of performance as approved by the senior procurement executive (see 225.101(d)).]**

\* \* \* \* \*

**PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

\* \* \* \* \*

**252.225-7000 Buy American--Balance of Payments Program Certificate.**

*Basic*. As prescribed in 225.1101(1) and (1)(i), use the following provision:

BUY AMERICAN—BALANCE OF PAYMENTS PROGRAM CERTIFICATE—BASIC (~~NOV 2014~~**[FEB 2024]**)

(a) *Definitions.* “Commercially available off-the-shelf (COTS) item,” “component,” **[“critical component,” “critical item,”]** “domestic end product,” “foreign end product,” “qualifying country,” “qualifying country end product,” ~~“South Caucasus/Central and South Asian (SC/CASA) state,” “South Caucasus/Central and South Asian (SC/CASA) state end product,”~~ and “United States,” as used in this provision, have the meanings given in the **[252.225-7001,]** Buy American and Balance of Payments Program—Basic clause of this solicitation.

(b) \* \* \*

(c) *Certifications and identification of country of origin.*

(1) For all line items subject to the Buy American and Balance of Payments Program—Basic clause of this solicitation, the **[O]**~~o~~fferor certifies that—

(i) Each end product, except those listed in paragraphs (c)(2) or (3) of this provision, is a domestic end product**[ and that each domestic end product listed in paragraph (c)(4) of this provision contains a critical component or a critical item]**; and

(ii) For end products other than COTS items, components of unknown origin are considered to have been mined, produced, or manufactured outside the United States or a qualifying country. **[****For those end products that do not consist wholly or predominantly of iron or steel or a combination of both, the Offeror shall also indicate whether these foreign end products exceed 55 percent domestic content, except for those that are COTS items. If the percentage of the domestic content is unknown, select “no”.]**

(2) The ~~o~~**[O]**fferor certifies that the following end products are qualifying country end products:

|  |  |
| --- | --- |
| **Line Item Number** | **Country of Origin** |
|  |  |
|  |  |
|  |  |

(3) The following end products are other foreign end products, including end products manufactured in the United States that do not qualify as domestic end products~~, i.e., an end product that is not a COTS item and does not meet the component test in paragraph (ii) of the definition of “domestic end product”:~~**[.** **For those foreign end products that do not consist wholly or predominantly of iron or steel or a combination of both, the Offeror shall also indicate whether these foreign end products exceed 55 percent domestic content, except for those that are COTS items. If the percentage of the domestic content is unknown, select “no”.]**

|  |  |  |  |
| --- | --- | --- | --- |
| ~~Line Item Number~~ |  | ~~Country of Origin (If known)~~ |  |
|  |  |  |  |
|  |  |  |  |

|  |  |  |
| --- | --- | --- |
| **[Line Item Number]** | **[Country of Origin (If known)]** | **[Exceeds 55% Domestic Content (yes/no)]** |
|  |  | **[** |
|  |  |  |
|  |  | **]** |

**[(4) The Offeror shall separately list the line item numbers of domestic end products that contain a critical component or a critical item (see Federal Acquisition Regulation 25.105).**

**Domestic end products containing a critical component or a critical item: Line Item Number \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

***[List as necessary]*]**

(End of provision)

*Alternate I*. As prescribed in 225.1101(1) and (1)(ii), use the following provision, which adds “South Caucasus/Central and South Asian (SC/CASA) state” and “South Caucasus/Central and South Asian (SC/CASA) state end product” in paragraph (a), and replaces “qualifying country end products” in paragraphs (b)(2) and (c)(2) with “qualifying country end products or SC/CASA state end products”:

BUY AMERICAN—BALANCE OF PAYMENTS PROGRAM CERTIFICATE—ALTERNATE I (~~NOV 2014~~**[FEB 2024]**)

(a) *Definitions*. “Commercially available off-the-shelf (COTS) item,” “component,” **[“critical component,” “critical item,”]** “domestic end product,” “foreign end product,” “qualifying country,” “qualifying country end product,” “South Caucasus/Central and South Asian (SC/CASA) state,” “South Caucasus/Central and South Asian (SC/CASA) state end product,” and “United States,” as used in this provision, have the meanings given in the **[252.225-7001,]** Buy American and Balance of Payments Program—Alternate I clause of this solicitation.

(b) \* \* \*

(c) *Certifications and identification of country of origin*.

(1) For all line items subject to the Buy American and Balance of Payments Program—Alternate I clause of this solicitation, the **[O]**~~o~~fferor certifies that—

(i) Each end product, except those listed in paragraphs (c)(2) or (3) of this provision, is a domestic end product**[** **and that each domestic end product listed in paragraph (c)(4) of this provision contains a critical component or a critical item]**; and

(ii) For end products other than COTS items, components of unknown origin are considered to have been mined, produced, or manufactured outside the United States or a qualifying country. **[****For those end products that do not consist wholly or predominantly of iron or steel or a combination of both, the Offeror shall also indicate whether these foreign end products exceed 55 percent domestic content, except for those that are COTS items. If the percentage of the domestic content is unknown, select “no”.]**

(2) The **[O]**~~o~~fferor certifies that the following end products are qualifying country end products or SC/CASA state end products:

|  |  |
| --- | --- |
| **Line Item Number** | **Country of Origin** |
|  |  |
|  |  |
|  |  |

(3) The following end products are other foreign end products, including end products manufactured in the United States that do not qualify as domestic end products~~, i.e., an end product that is not a COTS item and does not meet the component test in paragraph (ii) of the definition of “domestic end product”:~~**[.** **For those foreign end products that do not consist wholly or predominantly of iron or steel or a combination of both, the Offeror shall also indicate whether these foreign end products exceed 55 percent domestic content, except for those that are COTS items. If the percentage of the domestic content is unknown, select “no”.]**

|  |  |  |  |
| --- | --- | --- | --- |
| ~~Line Item Number~~ |  | ~~Country of Origin (If known)~~ |  |
|  |  |  |  |
|  |  |  |  |

|  |  |  |
| --- | --- | --- |
| **[Line Item Number]** | **[Country of Origin (If known)]** | **[Exceeds 55% Domestic Content (yes/no)]** |
|  |  | **[** |
|  |  |  |
|  |  | **]** |

**[(4) The Offeror shall separately list the line item numbers of domestic end products that contain a critical component or a critical item (see Federal Acquisition Regulation 25.105).**

**Domestic end products containing a critical component or a critical item: Line Item Number \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

***[List as necessary]*]**

(End of provision)

**252.225-7001 Buy American and Balance of Payments Program.**

*Basic*. As prescribed in 225.1101(2)(i) and (2)(ii), use the following clause:

BUY AMERICAN AND BALANCE OF PAYMENTS PROGRAM—BASIC

(~~JAN 2023~~**[FEB 2024]**)

(a) *Definitions.* As used in this clause⎯

“Commercially available off-the-shelf (COTS) item”—

(1) Means any item of supply (including construction material) that is—

(i) A commercial product (as defined in paragraph (1) of the definition of “commercial product” in section 2.101 of the Federal Acquisition Regulation **[(FAR)]**);

\* \* \* \* \*

“Component” means an article, material, or supply incorporated directly into an end product.

**[“Critical component” means a component that is mined, produced, or manufactured in the United States and deemed critical to the U.S. supply chain. The list of critical components is at FAR 25.105.**

**“Critical item” means a domestic construction material or domestic end product that is deemed critical to the U.S. supply chain. The list of critical items is at FAR 25.105.]**

“Domestic end product” means—

(1) For an end product that does not consist wholly or predominantly of iron or steel or a combination of both—

(i) An unmanufactured end product mined or produced in the United States; or

(ii) An end product manufactured in the United States if—

(A) The cost of its qualifying country components and its components that are mined, produced, or manufactured in the United States exceeds ~~55~~**[60]** percent of the cost of all its components**[, except that the percentage will be 65 percent for items delivered in calendar years 2024 through 2028 and 75 percent for items delivered starting in calendar year 2029, unless an alternate percentage is established for a contract in accordance with FAR 25.101(d), or award is made before January 1, 2030, for a foreign end product that exceeds 55 percent domestic content** **(see Defense Federal Acquisition Regulation Supplement 225.103(b)(ii))]**. The cost of components includes transportation costs to the place of incorporation into the end product and U.S. duty (whether or not a duty-free entry certificate is issued). Components of unknown origin are treated as foreign. Scrap generated, collected, and prepared for processing in the United States is considered domestic. A component is considered to have been mined, produced, or manufactured in the United States (regardless of its source in fact) if the end product in which it is incorporated is manufactured in the United States and the component is of a class or kind for which the Government has determined that—

(*1)* Sufficient and reasonably available commercial quantities of a satisfactory quality are not mined, produced, or manufactured in the United States; or

(*2*) It is inconsistent with the public interest to apply the restrictions of the Buy American statute; or

(B) The end product is a COTS item; or

(2) For an end product that consists wholly or predominantly of iron or steel or a combination of both, an end product manufactured in the United States, if the cost of iron and steel not produced in the United States or a qualifying country constitutes less than 5 percent of the cost of all the components used in the end product (produced in the United States or a qualifying country means that all manufacturing processes of the iron or steel must take place in the United States or a qualifying country, except metallurgical processes involving refinement of steel additives). The cost of iron and steel not produced in the United States or a qualifying country includes but is not limited to the cost of iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings, not produced in the United States or a qualifying country, utilized in the manufacture of the end product and a good faith estimate of the cost of all iron or steel components not produced in the United States or a qualifying country, excluding COTS fasteners. Iron or steel components of unknown origin are treated as foreign. If the end product contains multiple components, the cost of all the materials used in such end product is calculated in accordance with the explanation of cost of components in paragraph (1)(ii)(A) of this definition.

\* \* \* \* \*

“Qualifying country end product” means—

(1) An unmanufactured end product mined or produced in a qualifying country; or

(2) An end product manufactured in a qualifying country if—

(i) The cost of the following types of components exceeds ~~50~~**[60]** percent of the cost of all its components**[, except that the percentage will be 65 percent for items delivered in calendar years 2024 through 2028 and 75 percent for items delivered starting in calendar year 2029, unless an alternate percentage is established for a contract]**:

(A) Components mined, produced, or manufactured in a qualifying country.

(B) Components mined, produced, or manufactured in the United States.

(C) Components of foreign origin of a class or kind for which the Government has determined that sufficient and reasonably available commercial quantities of a satisfactory quality are not mined, produced, or manufactured in the United States. Components of unknown origin are treated as foreign; or

(ii) The end product is a COTS item.

\* \* \* \* \*

(b) This clause implements**[ 41 U.S.C. chapter 83]**, Buy American. In accordance with 41 U.S.C. 1907, the component test of the Buy American statute is waived for an end product that is a COTS item (see ~~section~~**[FAR]** 12.505(a)(1)**[).]** ~~of the Federal Acquisition Regulation).~~ Unless otherwise specified, this clause applies to all line items in the contract.

\* \* \* \* \*

(End of clause)

*Alternate I*. As prescribed in 225.1101(2)(i) and (2)(iii), use the following clause, which adds “South Caucasus/Central and South Asian (SC/CASA) state” and “South Caucasus/Central and South Asian (SC/CASA) state end product” to paragraph (a), and uses different paragraphs (b) and (c) than the basic clause:

BUY AMERICAN AND BALANCE OF PAYMENTS PROGRAM⎯ALTERNATE I

(~~JAN 2023~~**[FEB 2024]**)

(a) *Definitions.* As used in this clause⎯

“Commercially available off-the-shelf (COTS) item”—

(1) Means any item of supply (including construction material) that is—

(i) A commercial product (as defined in paragraph (1) of the definition of “commercial product” in section 2.101 of the Federal Acquisition Regulation **[(FAR)]**);

\* \* \* \* \*

“Component” means an article, material, or supply incorporated directly into an end product.

**[****“Critical component” means a component that is mined, produced, or manufactured in the United States and deemed critical to the U.S. supply chain. The list of critical components is at FAR 25.105.**

**“Critical item” means a domestic construction material or domestic end product that is deemed critical to the U.S. supply chain. The list of critical items is at FAR 25.105.]**

“Domestic end product” means—

(1) For an end product that does not consist wholly or predominantly of iron or steel or a combination of both—

(i) An unmanufactured end product mined or produced in the United States; or

(ii) An end product manufactured in the United States if—

(A) The cost of its qualifying country components and its components that are mined, produced, or manufactured in the United States exceeds ~~55~~**[60]** percent of the cost of all its components **[,** **except that the percentage will be 65 percent for items delivered in calendar years 2024 through 2028 and 75 percent for items delivered starting in calendar year 2029, unless an alternate percentage is established for a contract in accordance with FAR 25.101(d)), or award is made before January 1, 2030, for a foreign end product that exceeds 55 percent domestic content (see Defense Federal Acquisition Regulation Supplement 225.103(b)(ii))]**. The cost of components includes transportation costs to the place of incorporation into the end product and U.S. duty (whether or not a duty-free entry certificate is issued). Components of unknown origin are treated as foreign. Scrap generated, collected, and prepared for processing in the United States is considered domestic. A component is considered to have been mined, produced, or manufactured in the United States (regardless of its source in fact) if the end product in which it is incorporated is manufactured in the United States and the component is of a class or kind for which the Government has determined that—

(*1*) Sufficient and reasonably available commercial quantities of a satisfactory quality are not mined, produced, or manufactured in the United States; or

(*2*) It is inconsistent with the public interest to apply the restrictions of the Buy American statute; or

(B) The end product is a COTS item; or

(2) For an end product that consists wholly or predominantly of iron or steel or a combination of both, an end product manufactured in the United States, if the cost of iron and steel not produced in the United States or a qualifying country constitutes less than 5 percent of the cost of all the components used in the end product (produced in the United States or a qualifying country means that all manufacturing processes of the iron or steel must take place in the United States or a qualifying country, except metallurgical processes involving refinement of steel additives). The cost of iron and steel not produced in the United States or a qualifying country includes but is not limited to the cost of iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings, not produced in the United States or a qualifying country, utilized in the manufacture of the end product and a good faith estimate of the cost of all iron or steel components not produced in the United States or a qualifying country, excluding COTS fasteners. Iron or steel components of unknown origin are treated as foreign. If the end product contains multiple components, the cost of all the materials used in such end product is calculated in accordance with the explanation of cost of components in paragraph (1)(ii)(A) of this definition.

**\* \* \* \* \***

“Qualifying country end product” means—

(1) An unmanufactured end product mined or produced in a qualifying country; or

(2) An end product manufactured in a qualifying country if—

(i) The cost of the following types of components exceeds ~~50~~**[60]** percent of the cost of all its components**[, except that the percentage will be 65 percent for items delivered in calendar years 2024 through 2028 and 75 percent for items delivered starting in calendar year 2029, unless an alternate percentage is established for a contract]**:

(A) Components mined, produced, or manufactured in a qualifying country.

(B) Components mined, produced, or manufactured in the United States.

(C) Components of foreign origin of a class or kind for which the Government has determined that sufficient and reasonably available commercial quantities of a satisfactory quality are not mined, produced, or manufactured in the United States. Components of unknown origin are treated as foreign; or

(ii) The end product is a COTS item.

\* \* \* \* \*

(b) This clause implements the Balance of Payments Program. Unless otherwise specified, this clause applies to all line items in the contract.

\* \* \* \* \*

(End of clause)

**[** ***Alternate II*. As prescribed in 225.1101(2)(i)** **and (2)(iv), use the following clause, which includes, in the definitions of “domestic end product” at paragraph (1)(ii)(A) and “qualifying country end product” at paragraph (2)(i), the domestic content threshold that will apply to the entire contract period of performance.**

**BUY AMERICAN AND BALANCE OF PAYMENTS PROGRAM⎯**

**ALTERNATE II (FEB 2024)**

**(a) *Definitions.* As used in this clause⎯**

**“Commercially available off-the-shelf (COTS) item”—**

**(1) Means any item of supply (including construction material) that is—**

**(i) A commercial product (as defined in paragraph (1) of the definition of “commercial product” in section 2.101 of the Federal Acquisition Regulation (FAR));**

**(ii) Sold in substantial quantities in the commercial marketplace; and**

**(iii) Offered to the Government, under a contract or subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace; and**

**(2) Does not include bulk cargo, as defined in 46 U.S.C. 40102(4), such as agricultural products and petroleum products.**

**“Component” means an article, material, or supply incorporated directly into an end product.**

**“Critical component” means a component that is mined, produced, or manufactured in the United States and deemed critical to the U.S. supply chain. The list of critical components is at FAR 25.105.**

**“Critical item” means a domestic construction material or domestic end product that is deemed critical to the U.S. supply chain. The list of critical items is at FAR 25.105.**

**“Domestic end product” means—**

**(1) For an end product that does not consist wholly or predominantly of iron or steel or a combination of both—**

**(i) An unmanufactured end product mined or produced in the United States; or**

**(ii) An end product manufactured in the United States if—**

**(A) The cost of its qualifying country components and its components that are mined, produced, or manufactured in the United States exceeds, for the entire period of performance for a contract awarded in: calendar year 2023, 60 percent of the cost of all its components; calendar years 2024 through 2028, 65 percent of the cost of all its components; or calendar year 2029 or later, 75 percent of the cost of all its components. The cost of components includes transportation costs to the place of incorporation into the end product and U.S. duty (whether or not a duty-free entry certificate is issued). Components of unknown origin are treated as foreign. Scrap generated, collected, and prepared for processing in the United States is considered domestic. A component is considered to have been mined, produced, or manufactured in the United States (regardless of its source in fact) if the end product in which it is incorporated is** **manufactured in the United States and the component is of a class or kind for which the Government has determined that—**

**(*1*) Sufficient and reasonably available commercial quantities of a satisfactory quality are not mined, produced, or manufactured in the United States; or**

**(*2*) It is inconsistent with the public interest to apply the restrictions of the Buy American statute; or**

**(B) The end product is a COTS item; or**

**(2) For an end product that consists wholly or predominantly of iron or steel or a combination of both, an end product manufactured in the United States, if the cost of iron and steel not produced in the United States or a qualifying country constitutes less than 5 percent of the cost of all the components used in the end product (produced in the United States or a qualifying country means that all manufacturing processes of the iron or steel must take place in the United States or a qualifying country, except metallurgical processes involving refinement of steel additives). The cost of iron and steel not produced in the United States or a qualifying country includes but is not limited to the cost of iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings, not produced in the United States or a qualifying country, utilized in the manufacture of the end product and a good faith estimate of the cost of all iron or steel components not produced in the United States or a qualifying country, excluding COTS fasteners. Iron or steel components of unknown origin are treated as foreign. If the end product contains multiple components, the cost of all the materials used in such end product is calculated in accordance with the explanation of cost of components in paragraph (1)(ii)(A) of this definition.**

**“End product” means those articles, materials, and supplies to be acquired under this contract for public use.**

**“Foreign end product” means an end product other than a domestic end product.**

**“Predominantly of iron or steel or a combination of both” means that the cost of the iron and steel content exceeds 50 percent of the total cost of all its components. The cost of iron and steel is the cost of the iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings utilized in the manufacture of the product and a good faith estimate of the cost of iron or steel components excluding COTS fasteners.**

**“Qualifying country” means a country with a reciprocal defense procurement memorandum of understanding or international agreement with the United States in which both countries agree to remove barriers to purchases of supplies produced in the other country or services performed by sources of the other country, and the memorandum or agreement complies, where applicable, with the requirements of section 36 of the Arms Export Control Act (22 U.S.C. 2776) and with 10 U.S.C. 2457. Accordingly, the following are qualifying countries:**

**Australia**

**Austria**

**Belgium**

**Canada**

**Czech Republic**

**Denmark**

**Egypt**

**Estonia**

**Finland**

**France**

**Germany**

**Greece**

**Israel**

**Italy**

**Japan**

**Latvia**

**Lithuania**

**Luxembourg**

**Netherlands**

**Norway**

**Poland**

**Portugal**

**Slovenia**

**Spain**

**Sweden**

**Switzerland**

**Turkey**

**United Kingdom of Great Britain and Northern Ireland.**

**Qualifying country component” means a component mined, produced, or manufactured in a qualifying country.**

**“Qualifying country end product” means—**

**(1) An unmanufactured end product mined or produced in a qualifying country; or**

**(2) An end product manufactured in a qualifying country if—**

**(i) The cost of the following types of components exceeds, for the entire period of performance for a contract awarded in calendar year 2023, 60 percent of the cost of all its components; calendar years 2024 through 2028, 65 percent of the cost of all its components; or calendar year 2029 or later, 75 percent of the cost of all its components:**

**(A) Components mined, produced, or manufactured in a qualifying country.**

**(B) Components mined, produced, or manufactured in the United States.**

**(C) Components of foreign origin of a class or kind for which the Government has determined that sufficient and reasonably available commercial quantities of a satisfactory quality are not mined, produced, or manufactured in the United States. Components of unknown origin are treated as foreign; or**

**(ii) The end product is a COTS item.**

**“Steel” means an alloy that includes at least 50 percent iron, between 0.02 and 2 percent carbon, and may include other elements.**

**“United States” means the 50 States, the District of Columbia, and outlying areas.**

**(b) This clause implements 41 U.S.C. chapter 83, Buy American. In accordance with 41 U.S.C. 1907, the component test of the Buy American statute is waived for an end product that is a COTS item (see FAR 12.505(a)(1)). Unless otherwise specified, this clause applies to all line items in the contract.**

**(c) The Contractor shall deliver only domestic end products unless, in its offer, it specified delivery of other end products in the Buy American—Balance of Payments Program Certificate provision of the solicitation. If the Contractor certified in its offer that it will deliver a qualifying country end product, the Contractor shall deliver a qualifying country end product or, at the Contractor’s option, a domestic end product.**

**(d) The contract price does not include duty for end products or components for which the Contractor will claim duty-free entry.**

**(End of clause)**

***Alternate III*. As prescribed in 225.1101(2)(i) and (2)(v), use the following clause, which includes, in the definitions of “domestic end product” at paragraph (1)(ii)(A) and “qualifying country end product” at paragraph (2)(i), the domestic content threshold that will apply to the entire contract period of performance; adds “South Caucasus/Central and South Asian (SC/CASA) state” and “South Caucasus/Central and South Asian (SC/CASA) state end product” to paragraph (a); and uses different paragraphs (b) and (c) than the basic clause:**

**BUY AMERICAN AND BALANCE OF PAYMENTS PROGRAM—**

**ALTERNATE III (FEB 2024)**

**(a) *Definitions*. As used in this clause—**

**“Commercially available off-the-shelf (COTS) item”—**

**(1) Means any item of supply (including construction material) that is—**

**(i) A commercial product (as defined in paragraph (1) of the definition of “commercial product” in section 2.101 of the Federal Acquisition Regulation (FAR));**

**(ii) Sold in substantial quantities in the commercial marketplace; and**

**(iii) Offered to the Government, under a contract or subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace; and**

**(2) Does not include bulk cargo, as defined in 46 U.S.C. 40102(4), such as agricultural products and petroleum products.**

**“Component” means an article, material, or supply incorporated directly into an end product.**

**“Critical component” means a component that is mined, produced, or manufactured in the United States and deemed critical to the U.S. supply chain. The list of critical components is at FAR 25.105.**

**“Critical item” means a domestic construction material or domestic end product that is deemed critical to the U.S. supply chain. The list of critical items is at FAR 25.105.**

**“Domestic end product” means—**

**(1) For an end product that does not consist wholly or predominantly of iron or steel or a combination of both—**

**(i) An unmanufactured end product mined or produced in the United States; or**

**(ii) An end product manufactured in the United States if—**

**(A) The cost of its qualifying country components and its components that are mined, produced, or manufactured in the United States exceeds, for the entire period of performance for a contract awarded in: calendar year 2023, 60 percent of the cost of all its components; calendar years 2024 through 2028, 65 percent of the cost of all its components; or calendar year 2029 or later, 75 percent of the cost of all its components. The cost of components includes transportation costs to the place of incorporation into the end product and U.S. duty (whether or not a duty-free entry certificate is issued). Components of unknown origin are treated as foreign. Scrap generated, collected, and prepared for processing in the United States is considered domestic. A component is considered to have been mined, produced, or manufactured in the United States (regardless of its source in fact) if the end product in which it is incorporated is manufactured in the United States and the component is of a class or kind for which the Government has determined that—**

**(*1*) Sufficient and reasonably available commercial quantities of a satisfactory quality are not mined, produced, or manufactured in the United States; or**

**(*2*) It is inconsistent with the public interest to apply the restrictions of the Buy American statute; or**

**(B) The end product is a COTS item; or**

**(2) For an end product that consists wholly or predominantly of iron or steel or a combination of both, an end product manufactured in the United States, if the cost of iron and steel not produced in the United States or a qualifying country constitutes less than 5 percent of the cost of all the components used in the end product (produced in the United States or a qualifying country means that all manufacturing processes of the iron or steel must take place in the United States or a qualifying country, except metallurgical processes involving refinement of steel additives). The cost of iron and steel not produced in the United States or a qualifying country includes but is not limited to the cost of iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings, not produced in the United States or a qualifying country, utilized in the manufacture of the end product and a good faith estimate of the cost of all iron or steel components not produced in the United States or a qualifying country, excluding COTS fasteners. Iron or steel components of unknown origin are treated as foreign. If the end product contains multiple components, the cost of all the materials used in such end product is calculated in accordance with the explanation of cost of components in paragraph (1)(ii)(A) of this definition.**

**“End product” means those articles, materials, and supplies to be acquired under this contract for public use.**

**“Foreign end product” means an end product other than a domestic end product.**

**“Predominantly of iron or steel or a combination of both” means that the cost of the iron and steel content exceeds 50 percent of the total cost of all its components. The cost of iron and steel is the cost of the iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings utilized in the manufacture of the product and a good faith estimate of the cost of iron or steel components excluding COTS fasteners.**

**“Qualifying country” means a country with a reciprocal defense procurement memorandum of understanding or international agreement with the United States in which both countries agree to remove barriers to purchases of supplies produced in the other country or services performed by sources of the other country, and the memorandum or agreement complies, where applicable, with the requirements of section 36 of the Arms Export Control Act (22 U.S.C. 2776) and with 10 U.S.C. 2457. Accordingly, the following are qualifying countries:**

**Australia**

**Austria**

**Belgium**

**Canada**

**Czech Republic**

**Denmark**

**Egypt**

**Estonia**

**Finland**

**France**

**Germany**

**Greece**

**Israel**

**Italy**

**Japan**

**Latvia**

**Lithuania**

**Luxembourg**

**Netherlands**

**Norway**

**Poland**

**Portugal**

**Slovenia**

**Spain**

**Sweden**

**Switzerland**

**Turkey**

**United Kingdom of Great Britain and Northern Ireland.**

**“Qualifying country component” means a component mined, produced, or manufactured in a qualifying country.**

**“Qualifying country end product” means—**

**(1) An unmanufactured end product mined or produced in a qualifying country; or**

**(2) An end product manufactured in a qualifying country if—**

**(i) The cost of the following types of components exceeds, for the entire period of performance for a contract awarded in: calendar year 2023, 60 percent of the cost of all its components; calendar years 2024 through 2028, 65 percent of the cost of all its components; or calendar year 2029 or later, 75 percent of the cost of all its components:**

**(A) Components mined, produced, or manufactured in a qualifying country.**

**(B) Components mined, produced, or manufactured in the United States.**

**(C) Components of foreign origin of a class or kind for which the Government has determined that sufficient and reasonably available commercial quantities of a satisfactory quality are not mined, produced, or manufactured in the United States. Components of unknown origin are treated as foreign; or**

**(ii) The end product is a COTS item.**

**“South Caucasus/Central and South Asian (SC/CASA) state” means Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Pakistan, Tajikistan, Turkmenistan, or Uzbekistan.**

**“South Caucasus/Central and South Asian (SC/CASA) state end product” means an article that—**

**(1) Is wholly the growth, product, or manufacture of an SC/CASA state; or**

**(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in an SC/CASA state into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.**

**“Steel” means an alloy that includes at least 50 percent iron, between 0.02 and 2 percent carbon, and may include other elements.**

**“United States” means the 50 States, the District of Columbia, and outlying areas.**

**(b) This clause implements the Balance of Payments Program. Unless otherwise specified, this clause applies to all line items in the contract.**

**(c) The Contractor shall deliver only domestic end products unless, in its offer, it specified delivery of other end products in the Buy American—Balance of Payments Program Certificate provision of the solicitation. If the Contractor certified in its offer that it will deliver a qualifying country end product or an SC/CASA state end product, the Contractor shall deliver a qualifying country end product, an SC/CASA state end product, or, at the Contractor's option, a domestic end product.**

**(d) The contract price does not include duty for end products or components for which the Contractor will claim duty-free entry.**

**(End of clause)]**

**\* \* \* \* \***

**252.225-7021 Trade Agreements.**

*Basic.* As prescribed in [225.1101](https://www.acq.osd.mil/dpap/dars/dfars/html/current/225_11.htm#225.1101)(6) and (6)(i), use the following clause:

TRADE AGREEMENTS—BASIC (~~OCT 2023~~**[FEB 2024]**)

(a) *Definitions*. As used in this clause—\* \* \*

“Qualifying country end product” means—

(1) An unmanufactured end product mined or produced in a qualifying country; or

(2) An end product manufactured in a qualifying country if—

(i) The cost of the following types of components exceeds ~~50~~**[****60]** percent of the cost of all its components**[,** **except that the percentage will be 65 percent for items delivered in calendar years 2024 through 2028 and 75 percent for items delivered starting in calendar year 2029, unless an alternate percentage is established for a contract]**:

(A) Components mined, produced, or manufactured in a qualifying country.

(B) Components mined, produced, or manufactured in the United States.

(C) Components of foreign origin of a class or kind for which the Government has determined that sufficient and reasonably available commercial quantities of a satisfactory quality are not mined, produced, or manufactured in the United States; or

(ii) The end product is a COTS item.

\* \* \* \* \*

(End of clause)

*Alternate I*. Reserved.

*Alternate II.* As prescribed in [225.1101](https://www.acq.osd.mil/dpap/dars/dfars/html/current/225_11.htm#225.1101)(6) and (6)(ii), use the following clause, which (i) adds “South Caucasus/Central and South Asian (SC/CASA) state” and “South Caucasus/Central and South Asian (SC/CASA) state end product” to paragraph (a); (ii) uses a different paragraph (c) than the basic clause; (iii) adds a new paragraph (d); and (iv) includes paragraphs (e) and (f) which are the same paragraphs (d) and (e) of the basic clause:

TRADE AGREEMENTS—ALTERNATE II (~~OCT 2023~~**[FEB 2024]**)

(a) *Definitions.* As used in this clause—\* \* \*

“Qualifying country end product” means—

(1) An unmanufactured end product mined or produced in a qualifying country; or

(2) An end product manufactured in a qualifying country if—

(i) The cost of the following types of components exceeds ~~50~~**[60]** percent of the cost of all its components**[[,** **except that the percentage will be 65 percent for items delivered in calendar years 2024 through 2028 and 75 percent for items delivered starting in calendar year 2029, unless an alternate percentage is established for a contract]**:

(A) Components mined, produced, or manufactured in a qualifying country.

(B) Components mined, produced, or manufactured in the United States.

(C) Components of foreign origin of a class or kind for which the Government has determined that sufficient and reasonably available commercial quantities of a satisfactory quality are not mined, produced, or manufactured in the United States; or

(ii) The end product is a COTS item.

\* \* \* \* \*

(End of clause)

**[** ***Alternate III.* As prescribed in 225.1101(6) and (6)(iii), use the following clause, which includes, in the definition of “qualifying country end product” at paragraph (2)(i), the domestic content threshold that will apply to the entire contract period of performance.**

**TRADE AGREEMENTS—ALTERNATE III (FEB 2024)**

**(a) *Definitions*. As used in this clause—**

**“Caribbean Basin country end product”—**

**(1) Means an article that—**

**(i) Is wholly the growth, product, or manufacture of a Caribbean Basin country; or**

**(ii) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a Caribbean Basin country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself; and**

**(2) Excludes products, other than petroleum and any product derived from petroleum, that are not granted duty-free treatment under the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(b)). These exclusions presently consist of—**

**(i) Textiles, apparel articles, footwear, handbags, luggage, flat goods, work gloves, leather wearing apparel, and handloomed, handmade, or folklore articles that are not granted duty-free status in the Harmonized Tariff Schedule of the United States (HTSUS);**

**(ii) Tuna, prepared or preserved in any manner in airtight containers; and**

**(iii) Watches and watch parts (including cases, bracelets, and straps) of whatever type, including, but not limited to, mechanical, quartz digital, or quartz analog, if such watches or watch parts contain any material that is the product of any country to which the HTSUS column 2 rates of duty (HTSUS General Note 3(b)) apply.**

**“Commercially available off-the-shelf (COTS) item”—**

**(1) Means any item of supply (including construction material) that is—**

**(i) A commercial product (as defined in paragraph (1) of the definition of “commercial product” in section 2.101 of the Federal Acquisition Regulation);**

**(ii) Sold in substantial quantities in the commercial marketplace; and**

**(iii) Offered to the Government, under a contract or subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace; and**

**(2) Does not include bulk cargo, as defined in 46 U.S.C. 40102(4), such as agricultural products and petroleum products.**

**“Component” means an article, material, or supply incorporated directly into an end product.**

**“Designated country” means—**

**(1) A World Trade Organization Government Procurement Agreement (WTO GPA) country (Armenia, Aruba, Australia, Austria, Belgium, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea (Republic of), Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Moldova, Montenegro, Netherlands, New Zealand, North Macedonia, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Taiwan (known in the World Trade Organization as “the Separate Customs Territory of Taiwan, Penghu, Kinmen, and Matsu” (Chinese Taipei)), Ukraine, or the United Kingdom);**

**(2) A Free Trade Agreement country (Australia, Bahrain, Chile, Colombia, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Korea (Republic of), Mexico, Morocco, Nicaragua, Panama, Peru, or Singapore);**

**(3) A least developed country (Afghanistan, Angola, Bangladesh, Benin, Bhutan, Burkina Faso, Burundi, Cambodia, Central African Republic, Chad, Comoros, Democratic Republic of Congo, Djibouti, Equatorial Guinea, Eritrea, Ethiopia, Gambia, Guinea, Guinea-Bissau, Haiti, Kiribati, Laos, Lesotho, Liberia, Madagascar, Malawi, Mali, Mauritania, Mozambique, Nepal, Niger, Rwanda, Samoa, Sao Tome and Principe, Senegal, Sierra Leone, Solomon Islands, Somalia, South Sudan, Tanzania, Timor-Leste, Togo, Tuvalu, Uganda, Vanuatu, Yemen, or Zambia); or**

**(4) A Caribbean Basin country (Antigua and Barbuda, Aruba, Bahamas, Barbados, Belize, Bonaire, British Virgin Islands, Curacao, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, Saba, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Sint Eustatius, Sint Maarten, or Trinidad and Tobago).**

**“Designated country end product” means a WTO GPA country end product, a Free Trade Agreement country end product, a least developed country end product, or a Caribbean Basin country end product.**

**“End product” means those articles, materials, and supplies to be acquired under this contract for public use.**

**“Free Trade Agreement country end product” means an article that—**

**(1) Is wholly the growth, product, or manufacture of a Free Trade Agreement country; or**

**(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a Free Trade Agreement country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.**

**“Least developed country end product” means an article that—**

**(1) Is wholly the growth, product, or manufacture of a least developed country; or**

**(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a least developed country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.**

**“Nondesignated country end product” means any end product that is not a U.S.-made end product or a designated country end product.**

**“Qualifying country” means a country with a reciprocal defense procurement memorandum of understanding or international agreement with the United States in which both countries agree to remove barriers to purchases of supplies produced in the other country or services performed by sources of the other country, and the memorandum or agreement complies, where applicable, with the requirements of section 36 of the Arms Export Control Act (22 U.S.C. 2776) and with 10 U.S.C. 2457. Accordingly, the following are qualifying countries:**

**Australia**

**Austria**

**Belgium**

**Canada**

**Czech Republic**

**Denmark**

**Egypt**

**Estonia**

**Finland**

**France**

**Germany**

**Greece**

**Israel**

**Italy**

**Japan**

**Latvia**

**Lithuania**

**Luxembourg**

**Netherlands**

**Norway**

**Poland**

**Portugal**

**Slovenia**

**Spain**

**Sweden**

**Switzerland**

**Turkey**

**United Kingdom of Great Britain and Northern Ireland**

**“Qualifying country end product” means—**

**(1) An unmanufactured end product mined or produced in a qualifying country; or**

**(2) An end product manufactured in a qualifying country if—**

**(i) The cost of the following types of components exceeds, for the entire period of performance for a contract awarded in: calendar year 2023, 60 percent of the cost of all its components; calendar years 2024 through 2028, 65 percent of the cost of all its components; or calendar year 2029 or later, 75 percent of the cost of all its components:**

**(A) Components mined, produced, or manufactured in a qualifying country.**

**(B) Components mined, produced, or manufactured in the United States.**

**(C) Components of foreign origin of a class or kind for which the Government has determined that sufficient and reasonably available commercial quantities of a satisfactory quality are not mined, produced, or manufactured in the United States; or**

**(ii) The end product is a COTS item.**

**“United States” means the 50 States, the District of Columbia, and outlying areas.**

**“U.S.-made end product” means an article that—**

**(1) Is mined, produced, or manufactured in the United States; or**

**(2) Is substantially transformed in the United States into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed.**

**“WTO GPA country end product” means an article that—**

**(1) Is wholly the growth, product, or manufacture of a WTO GPA country; or**

**(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a WTO GPA country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.**

**(b) Unless otherwise specified, this clause applies to all items in the Schedule.**

**(c) The Contractor shall deliver under this contract only U.S.-made, qualifying country, or designated country end products unless—**

**(1) In its offer, the Contractor specified delivery of other nondesignated country end products in the Trade Agreements Certificate provision of the solicitation; and**

**(2)(i) Offers of U.S.-made, qualifying country, or designated country end products from responsive, responsible offerors are either not received or are insufficient to fill the Government's requirements; or**

**(ii) A national interest waiver has been granted.**

**(d) The contract price does not include duty for end products or components for which the Contractor will claim duty-free entry.**

**(e) The HTSUS is available at *http://www.usitc.gov/tata/hts/bychapter/index.htm*. The following sections of the HTSUS provide information regarding duty-free status of articles specified in the definition of “Caribbean Basin country end product” within paragraph (a) of this clause:**

**(1) General Note 3(c), Products Eligible for Special Tariff Treatment.**

**(2) General Note 17, Products of Countries Designated as Beneficiary Countries Under the United States-Caribbean Basin Trade Partnership Act of 2000.**

**(3) Section XXII, Chapter 98, Subchapter II, Articles Exported and Returned, Advanced or Improved Abroad, U.S. Note 7(b).**

**(4) Section XXII, Chapter 98, Subchapter XX, Goods Eligible for Special Tariff Benefits Under the United States-Caribbean Basin Trade Partnership Act.**

**(End of clause)**

***Alternate IV*. As prescribed in 225.1101(6) and (6)(iv), use the following clause, which (i) includes, in the definition of “qualifying country end product” at paragraph (2)(i), the domestic content threshold that will apply to the entire contract period of performance; (ii) adds “South Caucasus/Central and South Asian (SC/CASA) state” and “South Caucasus/Central and South Asian (SC/CASA) state end product” to paragraph (a); (iii) uses a different paragraph (c) than the basic clause; (iv) adds a new paragraph (d); and (v) includes paragraphs (e) and (f) which are the same paragraphs (d) and (e) of the basic clause:**

**TRADE AGREEMENTS—ALTERNATE IV (FEB 2024)**

**(a) *Definitions*. As used in this clause—**

**“Caribbean Basin country end product”—**

**(1) Means an article that—**

**(i) Is wholly the growth, product, or manufacture of a Caribbean Basin country; or**

**(ii) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a Caribbean Basin country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself; and**

**(2) Excludes products, other than petroleum and any product derived from petroleum, that are not granted duty-free treatment under the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(b)). These exclusions presently consist of—**

**(i) Textiles, apparel articles, footwear, handbags, luggage, flat goods, work gloves, leather wearing apparel, and handloomed, handmade, or folklore articles that are not granted duty-free status in the Harmonized Tariff Schedule of the United States (HTSUS);**

**(ii) Tuna, prepared or preserved in any manner in airtight containers; and**

**(iii) Watches and watch parts (including cases, bracelets, and straps) of whatever type, including, but not limited to, mechanical, quartz digital, or quartz analog, if such watches or watch parts contain any material that is the product of any country to which the HTSUS column 2 rates of duty (HTSUS General Note 3(b)) apply.**

**“Commercially available off-the-shelf (COTS) item”—**

**(1) Means any item of supply (including construction material) that is—**

**(i) A commercial product (as defined in paragraph (1) of the definition of commercial product in section 2.101 of the Federal Acquisition Regulation);**

**(ii) Sold in substantial quantities in the commercial marketplace; and**

**(iii) Offered to the Government, under a contract or subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace; and**

**(2) Does not include bulk cargo, as defined in 46 U.S.C. 40102(4), such as agricultural products and petroleum products.**

**“Component” means an article, material, or supply incorporated directly into an end product.**

**“Designated country” means—**

**(1) A World Trade Organization Government Procurement Agreement (WTO GPA) country (Armenia, Aruba, Australia, Austria, Belgium, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea (Republic of), Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Moldova, Montenegro, Netherlands, New Zealand, North Macedonia, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Taiwan (known in the World Trade Organization as “the Separate Customs Territory of Taiwan, Penghu, Kinmen, and Matsu” (Chinese Taipei)), Ukraine, or the United Kingdom);**

**(2) A Free Trade Agreement country (Australia, Bahrain, Chile, Colombia, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Korea (Republic of), Mexico, Morocco, Nicaragua, Peru, or Singapore);**

**(3) A least developed country (Afghanistan, Angola, Bangladesh, Benin, Bhutan, Burkina Faso, Burundi, Cambodia, Central African Republic, Chad, Comoros, Democratic Republic of Congo, Djibouti, East Timor, Equatorial Guinea, Eritrea, Ethiopia, Gambia, Guinea, Guinea-Bissau, Haiti, Kiribati, Laos, Lesotho, Liberia, Madagascar, Malawi, Maldives, Mali, Mauritania, Mozambique, Nepal, Niger, Rwanda, Samoa, Sao Tome and Principe, Senegal, Sierra Leone, Solomon Islands, Somalia, Tanzania, Togo, Tuvalu, Uganda, Vanuatu, Yemen, or Zambia); or**

**(4) A Caribbean Basin country (Antigua and Barbuda, Aruba, Bahamas, Barbados, Belize, Bonaire, British Virgin Islands, Curacao, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, Saba, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Sint Eustatius, Sint Maarten, or Trinidad and Tobago).**

**“Designated country end product” means a WTO GPA country end product, a Free Trade Agreement country end product, a least developed country end product, or a Caribbean Basin country end product.**

**“End product” means those articles, materials, and supplies to be acquired under this contract for public use.**

**“Free Trade Agreement country end product” means an article that—**

**(1) Is wholly the growth, product, or manufacture of a Free Trade Agreement country; or**

**(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a Free Trade Agreement country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.**

**“Least developed country end product” means an article that—**

**(1) Is wholly the growth, product, or manufacture of a least developed country; or**

**(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a least developed country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.**

**“Nondesignated country end product” means any end product that is not a U.S.-made end product or a designated country end product.**

**“Qualifying country” means a country with a reciprocal defense procurement memorandum of understanding or international agreement with the United States in which both countries agree to remove barriers to purchases of supplies produced in the other country or services performed by sources of the other country, and the memorandum or agreement complies, where applicable, with the requirements of section 36 of the Arms Export Control Act (22 U.S.C. 2776) and with 10 U.S.C. 2457. Accordingly, the following are qualifying countries:**

**Australia**

**Austria**

**Belgium**

**Canada**

**Czech Republic**

**Denmark**

**Egypt**

**Estonia**

**Finland**

**France**

**Germany**

**Greece**

**Israel**

**Italy**

**Japan**

**Latvia**

**Lithuania**

**Luxembourg**

**Netherlands**

**Norway**

**Poland**

**Portugal**

**Slovenia**

**Spain**

**Sweden**

**Switzerland**

**Turkey**

**United Kingdom of Great Britain and Northern Ireland.**

**“Qualifying country end product” means—**

**(1) An unmanufactured end product mined or produced in a qualifying country; or**

**(2) An end product manufactured in a qualifying country if—**

**(i) The cost of the following types of components exceeds, for the entire period of performance for a contract awarded in: calendar year 2023, 60 percent of the cost of all its components; calendar years 2024 through 2028, 65 percent of the cost of all its components; or calendar year 2029 or later, 75 percent of the cost of all its components:**

**(A) Components mined, produced, or manufactured in a qualifying country.**

**(B) Components mined, produced, or manufactured in the United States.**

**(C) Components of foreign origin of a class or kind for which the Government has determined that sufficient and reasonably available commercial quantities of a satisfactory quality are not mined, produced, or manufactured in the United States; or**

**(ii) The end product is a COTS item.**

**“South Caucasus/Central and South Asian (SC/CASA) state” means Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Pakistan, Tajikistan, Turkmenistan, or Uzbekistan.**

**“South Caucasus/Central and South Asian (SC/CASA) state end product” means an article that—**

**(1) Is wholly the growth, product, or manufacture of an SC/CASA state; or**

**(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in an SC/CASA state into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.**

**“United States” means the 50 States, the District of Columbia, and outlying areas.**

**“U.S.-made end product” means an article that—**

**(1) Is mined, produced, or manufactured in the United States; or**

**(2) Is substantially transformed in the United States into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed.**

**“WTO GPA country end product” means an article that—**

**(1) Is wholly the growth, product, or manufacture of a WTO GPA country; or**

**(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a WTO GPA country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.**

**(b) Unless otherwise specified, this clause applies to all items in the Schedule.**

**(c) The Contractor shall deliver under this contract only U.S.-made, qualifying country, SC/CASA state, or designated country end products unless—**

**(1) In its offer, the Contractor specified delivery of other nondesignated country end products in the Trade Agreements Certificate provision of the solicitation; and**

**(2)(i) Offers of U.S.-made, qualifying country, SC/CASA state, or designated country end products from responsive, responsible offerors are either not received or are insufficient to fill the Government's requirements; or**

**(ii) A national interest waiver has been granted.**

**(d) If the Contractor is from an SC/CASA state, the Contractor shall inform its government of its participation in this acquisition and that it generally will not have such opportunity in the future unless its government provides reciprocal procurement opportunities to U.S. products and services and suppliers of such products and services.**

**(e) The contract price does not include duty for end products or components for which the Contractor will claim duty-free entry.**

**(f) The HTSUS is available at *http://www.usitc.gov/tata/hts/bychapter/index.htm*. The following sections of the HTSUS provide information regarding duty-free status of articles specified in the definition of “Caribbean Basin country end product” within paragraph (a) of this clause:**

**(1) General Note 3(c), Products Eligible for Special Tariff Treatment.**

**(2) General Note 17, Products of Countries Designated as Beneficiary Countries Under the United States—Caribbean Basin Trade Partnership Act of 2000.**

**(3) Section XXII, Chapter 98, Subchapter II, Articles Exported and Returned, Advanced or Improved Abroad, U.S. Note 7(b).**

**(4) Section XXII, Chapter 98, Subchapter XX, Goods Eligible for Special Tariff Benefits Under the United States—Caribbean Basin Trade Partnership Act.**

**(End of clause)**

**\* \* \* \* \***

**252.225-7035 Buy American--Free Trade Agreements--Balance of Payments Program Certificate.**

*Basic.* As prescribed in 225.1101(9) and (9)(i), use the following provision:

BUY AMERICAN—FREE TRADE AGREEMENTS—BALANCE OF PAYMENTS PROGRAM CERTIFICATE—BASIC (~~NOV 2023~~**[FEB 2024]**)

(a) *Definitions.* “Bahraini end product,” “commercially available off-the-shelf (COTS) item,” “component,” **[“critical component,” “critical item,”]** “domestic end product,” “Free Trade Agreement country,” “Free Trade Agreement country end product,” “foreign end product,” “Moroccan end product,” “Panamanian end product,” “Peruvian end product,” “qualifying country end product,” and “United States,” as used in this provision, have the meanings given in the **[252.225-7036,]** Buy American—Free Trade Agreements—Balance of Payments Program—Basic clause of this solicitation.

(b) \* \* \*

(c) *Certifications and identification of country of origin.*

(1) For all line items subject to the Buy American—Free Trade Agreements—Balance of Payments Program—Basic clause of this solicitation, the **[O]**~~o~~fferor certifies that—

(i) Each end product, except the end products listed in paragraph (c)(2) of this provision, is a domestic end product; ~~and~~

(ii) **[Each domestic end product listed in paragraph (c)(3) of this provision contains a critical component or a critical item; and**

**(iii) ]**Components of unknown origin are considered to have been mined, produced, or manufactured outside the United States or a qualifying country.

(2) The **[O]**~~o~~fferor shall identify all end products that are not domestic end products.

(i) The **[O]**~~o~~fferor certifies that the following supplies are qualifying country (except Australian) end products:

(Line Item Number) (Country of Origin)

(ii) The **[O]**~~o~~fferor certifies that the following supplies are Free Trade Agreement country end products other than Bahraini end products, Moroccan end products, Panamanian end products or Peruvian end products:

(Line Item Number) (Country of Origin)

(iii) The following supplies are other foreign end products, including end products manufactured in the United States that do not qualify as domestic end products~~, i.e., an end product that is not a COTS item and does not meet the component test in paragraph (1)(ii) of the definition of “domestic end product”:~~**[.** **For those foreign end products that do not consist wholly or predominantly of iron or steel or a combination of both, the Offeror shall also indicate whether these foreign end products exceed 55 percent domestic content, except those that are COTS items. If the percentage of the domestic content is unknown, select “no”.]**

~~(Line Item Number) (Country of Origin (If known))~~

|  |  |  |
| --- | --- | --- |
| **[Line Item Number]** | **[Country of Origin (If known)]** | **[Exceeds 55% Domestic Content (yes/no)]** |
|  |  | **[** |
|  |  |  |
|  |  | **]** |

**[(3) The Offeror shall list the line item numbers of domestic end products that contain a critical component or a critical item (see section 25.105 of the Federal Acquisition Regulation).**

**Line Item Number: *\_\_\_\_\_\_\_\_[List as necessary]*\_\_\_\_\_\_\_\_\_\_\_\_\_]**

**(End of provision)**

*Alternate I.* As prescribed in 225.1101(9) and (9)(ii), use the following provision, which does not use the phrases “Bahraini end product,” “Free Trade Agreement country,” “Free Trade Agreement country end product,” “Moroccan end product,” “Panamanian end product,” and “Peruvian end products” in paragraph (a); does not use “Free Trade Agreement country end products other than Bahraini end products, Moroccan end products, Panamanian end products, or Peruvian end products” in paragraphs (b)(2) and (c)(2)(ii); ~~and~~ does not use “Australian or” in paragraph (c)(2)(i)**[;** **and includes “that are mined, produced, or manufactured in the United States” in paragraph (c)(2)(ii)]**:

BUY AMERICAN—FREE TRADE AGREEMENTS—BALANCE OF PAYMENTS PROGRAM CERTIFICATE—ALTERNATE I (~~DEC 2022~~**[FEB 2024]**)

(a) *Definitions.* “Commercially available off-the-shelf (COTS) item,” “component,” **[“critical component,” “critical item,”]** “domestic end product,” “foreign end product,” “qualifying country end product,” and “United States,” as used in this provision, have the meanings given in the **[252.225-7036,]** Buy American—Free Trade Agreements—Balance of Payments Program—Alternate I clause of this solicitation.

(b) \* \* \*

(c) *Certifications and identification of country of origin.*

(1) For all line items subject to the Buy American—Free Trade Agreements—Balance of Payments Program—Alternate I clause of this solicitation, the **[O]**~~o~~fferor certifies that—

(i) Each end product, except the end products listed in paragraph (c)(2) of this provision, is a domestic end product; ~~and~~

(ii) **[Each domestic end product listed in paragraph (c)(3) of this provision contains a critical component or a critical item; and**

**(iii)]** Components of unknown origin are considered to have been mined, produced, or manufactured outside the United States or a qualifying country.

(2) The **[O]**~~o~~fferor shall identify all end products that are not domestic end products.

(i) The **[O]**~~o~~fferor certifies that the following supplies are qualifying country end products:

(Line Item Number) (Country of Origin)

(ii) The following supplies are other foreign end products, including end products manufactured in the United States that do not qualify as domestic end products~~, i.e., an end product that is not a COTS item and does not meet the component test in paragraph (1)(ii) of the definition of “domestic end product”:~~**[.** **For those foreign end products that do not consist wholly or predominantly of iron or steel or a combination of both, the Offeror shall also indicate whether these foreign end products exceed 55 percent domestic content, except those that are COTS items that are mined, produced, or manufactured in the United States. If the percentage of the domestic content is unknown, select “no”.]**

~~(Line Item Number)                           (Country of Origin (If known))~~

|  |  |  |
| --- | --- | --- |
| **[Line Item Number]** | **[Country of Origin (If known)]** | **[Exceeds 55% Domestic Content (yes/no)]** |
|  |  | **[** |
|  |  |  |
|  |  | **]** |

**[(3) The Offeror shall list the line item numbers of domestic end products that contain a critical component or a critical item (see section 25.105 of the Federal Acquisition Regulation).**

**Line Item Number: *\_\_\_\_\_\_\_\_\_\_\_[List as necessary]*\_\_\_\_\_\_\_\_\_\_\_\_\_\_]**

(End of provision)

*Alternate II.* As prescribed in 225.1101(9) and (9)(iii), use the following provision, which adds “South Caucasus/Central and South Asian (SC/CASA) state” and “South Caucasus/Central and South Asian (SC/CASA) state end product” to paragraph (a), and uses different paragraphs (b)(2) and (c)(2)(i) than the basic provision:

BUY AMERICAN—FREE TRADE AGREEMENTS—BALANCE OF PAYMENTS PROGRAM CERTIFICATE—ALTERNATE II (~~NOV 2023~~**[FEB 2024])**

(a) *Definitions.* “Bahraini end product,” “commercially available off-the-shelf (COTS) item,” “component,” **[“critical component,” “critical item,”]** “domestic end product,” “Free Trade Agreement country,” “Free Trade Agreement country end product,” “foreign end product,” “Moroccan end product,” “Panamanian end product,” “Peruvian end product,” “qualifying country end product,” “South Caucasus/Central and South Asian (SC/CASA) state,” “South Caucasus/Central and South Asian (SC/CASA) state end product,” and “United States,” as used in this provision, have the meanings given in the **[252.225-7036,]** Buy American—Free Trade Agreements—Balance of Payments Program—Alternate II clause of this solicitation.

(b) \* \* \*

(c) *Certifications and identification of country of origin.*

(1) For all line items subject to the Buy American—Free Trade Agreements—Balance of Payments Program—Alternate II clause of this solicitation, the **[O]**~~o~~fferor certifies that—

(i) Each end product, except the end products listed in paragraph (c)(2) of this provision, is a domestic end product; ~~and~~

(ii) **[Each domestic end product listed in paragraph (c)(3) of this provision contains a critical component or a critical item; and**

**(iii)]** Components of unknown origin are considered to have been mined, produced, or manufactured outside the United States or a qualifying country.

(2) The **[O]**~~o~~fferor shall identify all end products that are not domestic end products.

(i) The **[O]**~~o~~fferor certifies that the following supplies are qualifying country (except Australian) or SC/CASA state end products:

(Line Item Number) (Country of Origin)

(ii) The **[O]**~~o~~fferor certifies that the following supplies are Free Trade Agreement country end products other than Bahraini end products, Moroccan end products, Panamanian end products, or Peruvian end products:

(Line Item Number) (Country of Origin)

(iii) The following supplies are other foreign end products, including end products manufactured in the United States that do not qualify as domestic end products~~, i.e., an end product that is not a COTS item and does not meet the component test in paragraph (1)(ii) of the definition of “domestic end product”:~~**[.** **For those foreign end products that do not consist wholly or predominantly of iron or steel or a combination of both, the Offeror shall also indicate whether these foreign end products exceed 55 percent domestic content, except those that are COTS items. If the percentage of the domestic content is unknown, select “no”.]**

~~(Line Item Number) (Country of Origin (If known))~~

|  |  |  |
| --- | --- | --- |
| **[Line Item Number]** | **[Country of Origin (If known)]** | **[Exceeds 55% Domestic Content (yes/no)]** |
|  |  | **[** |
|  |  |  |
|  |  | **]** |

**[(3) The Offeror shall list the line item numbers of domestic end products that contain a critical component or a critical item (see section 25.105 of the Federal Acquisition Regulation).**

**Line Item Number: *\_\_\_\_\_\_\_\_\_[List as necessary]\_\_\_\_\_\_\_\_\_\_\_*]**

(End of provision)

*Alternate III.* As prescribed in 225.1101(9) and (9)(iv), use the following provision, which uses different paragraphs (a), (b)(2), (c)(2)(i), and (c)(2)(ii) than the basic provision:

BUY AMERICAN—FREE TRADE AGREEMENTS—BALANCE OF PAYMENTS PROGRAM CERTIFICATE—ALTERNATE III (~~NOV 2023~~**[FEB 2024]**)

(a) *Definitions.* “Commercially available off-the-shelf (COTS) item,”**[“component,” “critical component,” “critical item,”]** “domestic end product,” “foreign end product,” “qualifying country end product,” “South Caucasus/Central and South Asian (SC/CASA) state end product,” and “United States,” as used in this provision have the meanings given in the **[252.225-7036,]** Buy American—Free Trade Agreements—Balance of Payments Program—Alternate III clause of this solicitation.

(b) \* \* \*

(c) *Certifications and identification of country of origin.*

(1) For all line items subject to the Buy American—Free Trade Agreements—Balance of Payments Program—Alternate III clause of this solicitation, the **[O]**~~o~~fferor certifies that—

(i) Each end product, except the end products listed in paragraph (c)(2) of this provision, is a domestic end product; ~~and~~

(ii) **[Each domestic end product listed in paragraph (c)(3) of this provision contains a critical component or a critical item; and**

**(iii)]** Components of unknown origin are considered to have been mined, produced, or manufactured outside the United States or a qualifying country.

(2) The **[O]**~~o~~fferor shall identify all end products that are not domestic end products.

(i) The **[O]**~~o~~fferor certifies that the following supplies are qualifying country or SC/CASA state end products:

(Line Item Number) (Country of Origin)

(ii) The **[O]**~~o~~fferor certifies that the following supplies are Free Trade Agreement country end products other than Bahraini end products, Moroccan end products, Panamanian end products, or Peruvian end products:

(Line Item Number) (Country of Origin)

(iii) The following supplies are other foreign end products, including end products manufactured in the United States that do not qualify as domestic end products~~, i.e., an end product that is not a COTS item and does not meet the component test in paragraph (ii) of the definition of “domestic end product”:~~**[.** **For those foreign end products that do not consist wholly or predominantly of iron or steel or a combination of both, the Offeror shall also indicate whether these foreign end products exceed 55 percent domestic content, except those that are COTS items. If the percentage of the domestic content is unknown, select “no”.]**

~~(Line Item Number) (Country of Origin (If known))~~

|  |  |  |
| --- | --- | --- |
| **[Line item Number]** | **[Country of Origin (If known)]** | **[Exceeds 55%**  **Domestic Content (yes/no)]** |
|  |  | **[** |
|  |  |  |
|  |  | **]** |

**[(3) The Offeror shall list the line item numbers of domestic end products that contain a critical component or a critical item (see section 25.105 of the Federal Acquisition Regulation).**

**Line Item Number: *\_\_\_\_\_\_\_\_\_[List as necessary]\_\_\_\_\_\_\_\_\_*]**

(End of provision)

*Alternate IV.* As prescribed in 225.1101(9) and (9)(v), use the following provision, which adds “Korean end product” to paragraph (a); and uses “Free Trade Agreement country end products other than Bahraini end products, Korean end products, Moroccan end products, Panamanian end products, or Peruvian end products” in paragraphs (b)(2) and (c)(2)(ii), rather than “Free Trade Agreement country end products other than Bahraini end products, Moroccan end products, Panamanian end products, or Peruvian end products” in paragraphs (b)(2) and (c)(2)(ii) of the basic provision:

BUY AMERICAN—FREE TRADE AGREEMENTS—BALANCE OF PAYMENTS PROGRAM CERTIFICATE—ALTERNATE IV (~~NOV 2023~~**[FEB 2024]**)

(a) *Definitions.* “Bahraini end product,” “commercially available off-the-shelf (COTS) item,” “component,” **[“critical component,” “critical item,”]** “domestic end product,” “Free Trade Agreement country,” “Free Trade Agreement country end product,” “foreign end product,” “Korean end product,” “Moroccan end product,” “Panamanian end product,” “Peruvian end product,” “qualifying country end product,” and “United States,” as used in this provision, have the meanings given in the **[252.225-7036,]** Buy American—Free Trade Agreements—Balance of Payments Program—Alternate IV clause of this solicitation.

(b) \* \* \*

(c) *Certifications and identification of country of origin.*

(1) For all line items subject to the Buy American—Free Trade Agreements—Balance of Payments Program—Alternate IV clause of this solicitation, the **[O]**~~o~~fferor certifies that—

(i) Each end product, except the end products listed in paragraph (c)(2) of this provision, is a domestic end product; ~~and~~

(ii) **[Each domestic end product listed in paragraph (c)(3) of this provision contains a critical component or a critical item; and**

**(iii)]** Components of unknown origin are considered to have been mined, produced, or manufactured outside the United States or a qualifying country.

(2) The **[O]**~~o~~fferor shall identify all end products that are not domestic end products.

(i) The **[O]**~~o~~fferor certifies that the following supplies are qualifying country (except Australian) end products:

(Line Item Number) (Country of Origin)

(ii) The **[O]**~~o~~fferor certifies that the following supplies are Free Trade Agreement country end products other than Bahraini end products, Korean end products, Moroccan end products, Panamanian end products, or Peruvian end products:

(Line Item Number) (Country of Origin)

(iii) The following supplies are other foreign end products, including end products manufactured in the United States that do not qualify as domestic end products~~, i.e., an end product that is not a COTS item and does not meet the component test in paragraph (1)(ii) of the definition of “domestic end product~~~~”:~~**[. For those foreign end products that do not consist wholly or predominantly of iron or steel or a combination of both, the Offeror shall also indicate whether these foreign end products exceed 55 percent domestic content, except those that are COTS items. If the percentage of the domestic content is unknown, select “no”.]**

~~(Line Item Number) (Country of Origin (If known))~~

|  |  |  |
| --- | --- | --- |
| **[Line item Number]** | **[Country of Origin (If known)]** | **[Exceeds 55% Domestic Content (yes/no)]** |
|  |  | **[** |
|  |  |  |
|  |  | **]** |

**[(3) The Offeror shall list the line item numbers of domestic end products that contain a critical component or a critical item (see section 25.105 of the Federal Acquisition Regulation).**

**Line Item Number: *\_\_\_\_\_\_\_\_[List as necessary]*\_\_\_\_\_\_\_\_\_\_\_\_\_]**

(End of provision)

*Alternate V.* As prescribed in 225.1101(9) and (9)(vi), use the following provision, which uses different paragraphs (a), (b)(2), (c)(2)(i), and (c)(2)(ii) than the basic provision:

BUY AMERICAN—FREE TRADE AGREEMENTS—BALANCE OF PAYMENTS PROGRAM CERTIFICATE—ALTERNATE V (~~NOV 2023~~**[FEB 2024]**)

(a) *Definitions.* “Bahraini end product,” “commercially available off-the-shelf (COTS) item,” “component,” **[“critical component,” “critical item,”]** “domestic end product,” “Free Trade Agreement country,” “Free Trade Agreement country end product,” “foreign end product,” “Korean end product,” “Moroccan end product,” “Panamanian end product,” “Peruvian end product,” “qualifying country end product,” “South Caucasus/Central and South Asian (SC/CASA) state end product,” and “United States,” as used in this provision, have the meanings given in the **[252.225-7036,]** Buy American—Free Trade Agreements—Balance of Payments Program—Alternate V clause of this solicitation.

(b) \* \* \*

(c) *Certifications and identification of country of origin.*

(1) For all line items subject to the Buy American—Free Trade Agreements—Balance of Payments Program—Alternate V clause of this solicitation, the **[O]**~~o~~fferor certifies that—

(i) Each end product, except the end products listed in paragraph (c)(2) of this provision, is a domestic end product; ~~and~~

(ii) **[****Each domestic end product listed in paragraph (c)(3) of this provision contains a critical component or a critical item; and**

**(iii)]** Components of unknown origin are considered to have been mined, produced, or manufactured outside the United States or a qualifying country.

(2) The **[O]**~~o~~fferor shall identify all end products that are not domestic end products.

(i) The **[O]**~~o~~fferor certifies that the following supplies are qualifying country (except Australian) or SC/CASA state end products:

(Line Item Number) (Country of Origin)

(ii) The **[O]**~~o~~fferor certifies that the following supplies are Free Trade Agreement country end products other than Bahraini end products, Korean end products, Moroccan end products, Panamanian end products, or Peruvian end products:

(Line Item Number) (Country of Origin)

(iii) The following supplies are other foreign end products, including end products manufactured in the United States that do not qualify as domestic end products~~, (i.e., an end product that is not a COTS item and does not meet the component test in paragraph (1)(ii) of the definition of “domestic end product”):~~**[.** **For those foreign end products that do not consist wholly or predominantly of iron or steel or a combination of both, the Offeror shall also indicate whether these foreign end products exceed 55 percent domestic content, except those that are COTS items. If the percentage of the domestic content is unknown, select “no”.]**

~~(Line Item Number) (Country of Origin (If known))~~

|  |  |  |
| --- | --- | --- |
| **[Line item Number]** | **[Country of Origin (If known)]** | **[Exceeds 55% Domestic Content (yes/no)]** |
|  |  | **[** |
|  |  |  |
|  |  | **]** |

**[(3) The Offeror shall list the line item numbers of domestic end products that contain a critical component or a critical item (see section 25.105 of the Federal Acquisition Regulation).**

**Line Item Number: *\_\_\_\_\_\_\_\_\_\_\_[List as necessary]\_\_\_\_\_\_\_\_\_\_\_\_\_\_*]**

(End of provision)

**252.225-7036 Buy American—Free Trade Agreements--Balance of Payments Program.**

*Basic*. As prescribed in 225.1101(10)(i) and (10)(i)(A), use the following clause:

BUY AMERICAN—FREE TRADE AGREEMENTS—BALANCE OF PAYMENTS

PROGRAM—BASIC (~~NOV 2023~~**[FEB 2024]**)

(a) *Definitions.* As used in this clause—

\* \* \* \* \*

“Commercially available off-the-shelf (COTS) item”—

(1) Means any item of supply (including construction material) that is—

(i) A commercial product (as defined in paragraph (1) of the definition of “commercial product” in section 2.101 of the Federal Acquisition Regulation **[(FAR)]**);

\* \* \* \* \*

“Component” means an article, material, or supply incorporated directly into an end product.

**[** **“Critical component” means a component that is mined, produced, or manufactured in the United States and deemed critical to the U.S. supply chain. The list of critical components is at FAR 25.105.**

**“Critical item” means domestic construction material or a domestic end product that is deemed critical to the U.S. supply chain. The list of critical items is at FAR 25.105.]**

“Domestic end product” means—

(1) For an end product that does not consist wholly or predominantly of iron or steel or a combination of both—

(i) An unmanufactured end product mined or produced in the United States; or

(ii) An end product manufactured in the United States if—

(A) The cost of its qualifying country components and its components that are mined, produced, or manufactured in the United States exceeds ~~55~~**[60]** percent of the cost of all its components**[, except that the percentage will be 65 percent for items delivered in calendar years 2024 through 2028 and 75 percent for items delivered starting in calendar year 2029, unless an alternate percentage is established for a contract in accordance with Defense Federal Acquisition Regulation Supplement (DFARS) 225.101(d); or award is made before January 1, 2030, for a foreign end product that exceeds 55 percent domestic content (see DFARS 225.103(b)(ii))]**. The cost of components includes transportation costs to the place of incorporation into the end product and U.S. duty (whether or not a duty-free entry certificate is issued). Components of unknown origin are treated as foreign. Scrap generated, collected, and prepared for processing in the United States is considered domestic. A component is considered to have been mined, produced, or manufactured in the United States (regardless of its source in fact) if the end product in which it is incorporated is manufactured in the United States and the component is of a class or kind for which the Government has determined that⎯

(*1*) Sufficient and reasonably available commercial quantities of a satisfactory quality are not mined, produced, or manufactured in the United States; or

(*2*) It is inconsistent with the public interest to apply the restrictions of the Buy American statute; or

(B) The end product is a COTS item; or

(2) For an end product that consists wholly or predominantly of iron or steel or a combination of both, an end product manufactured in the United States, if the cost of iron and steel not produced in the United States or a qualifying country constitutes less than 5 percent of the cost of all the components used in the end product (produced in the United States or a qualifying country means that all manufacturing processes of the iron or steel must take place in the United States or a qualifying country, except metallurgical processes involving refinement of steel additives). The cost of iron and steel not produced in the United States or a qualifying country includes but is not limited to the cost of iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings, not produced in the United States or a qualifying country, utilized in the manufacture of the end product and a good faith estimate of the cost of all iron or steel components not produced in the United States or a qualifying country, excluding COTS fasteners. Iron or steel components of unknown origin are treated as foreign. If the end product contains multiple components, the cost of all the materials used in such end product is calculated in accordance with the explanation of cost of components in paragraph (1)(ii)(A) of this definition.

\* \* \* \* \*

*“*Qualifying country end product” means—

(1) An unmanufactured end product mined or produced in a qualifying country; or

(2) An end product manufactured in a qualifying country if—

(i) The cost of the following types of components exceeds ~~50~~**[60]** percent of the cost of all its components**[, except that the percentage will be 65 percent for items delivered in calendar years 2024 through 2028 and 75 percent for items delivered starting in calendar year 2029, unless an alternate percentage is established for a contract]**:

(A) Components mined, produced, or manufactured in a qualifying country.

(B) Components mined, produced, or manufactured in the United States.

(C) Components of foreign origin of a class or kind for which the Government has determined that sufficient and reasonably available commercial quantities of a satisfactory quality are not mined, produced, or manufactured in the United States. Components of unknown origin are treated as foreign; or

(ii) The end product is a COTS item.

\* \* \* \* \*

(End of clause)

*Alternate I*. As prescribed in 225.1101(10)(i) and (10)(i)(B), use the following clause, which uses a different paragraph (c) than the basic clause:

BUY AMERICAN—FREE TRADE AGREEMENTS—BALANCE OF PAYMENTS

PROGRAM—~~BASIC~~**[ALTERNATE I]** (~~NOV 2023~~**[FEB 2024]**)

(a) *Definitions.* As used in this clause—

\* \* \* \* \*

“Commercially available off-the-shelf (COTS) item”—

(1) Means any item of supply (including construction material) that is—

(i) A commercial product (as defined in paragraph (1) of the definition of “commercial product” in section 2.101 of the Federal Acquisition Regulation **[(FAR)]**);

\* \* \* \* \*

“Component” means an article, material, or supply incorporated directly into an end product.

**[** **“Critical component” means a component that is mined, produced, or manufactured in the United States and deemed critical to the U.S. supply chain. The list of critical components is at FAR 25.105.**

**“Critical item” means domestic construction material or a domestic end product that is deemed critical to the U.S. supply chain. The list of critical items is at FAR 25.105.]**

“Domestic end product” means—

(1) For an end product that does not consist wholly or predominantly of iron or steel or a combination of both—

(i) An unmanufactured end product mined or produced in the United States; or

(ii) An end product manufactured in the United States if—

(A) The cost of its qualifying country components and its components that are mined, produced, or manufactured in the United States exceeds ~~55~~**[60]** percent of the cost of all its components**[, except that the percentage will be 65 percent for items delivered in calendar years 2024 through 2028 and 75 percent for items delivered starting in calendar year 2029, unless an alternate percentage is established for a contract in accordance with Defense Federal Acquisition Regulation Supplement (DFARS) 225.101(d); or award is made before January 1, 2030, for a foreign end product that exceeds 55 percent domestic content (see DFARS 225.103(b)(ii))]**. The cost of components includes transportation costs to the place of incorporation into the end product and U.S. duty (whether or not a duty-free entry certificate is issued). Components of unknown origin are treated as foreign. Scrap generated, collected, and prepared for processing in the United States is considered domestic. A component is considered to have been mined, produced, or manufactured in the United States (regardless of its source in fact) if the end product in which it is incorporated is manufactured in the United States and the component is of a class or kind for which the Government has determined that⎯

(*1*) Sufficient and reasonably available commercial quantities of a satisfactory quality are not mined, produced, or manufactured in the United States; or

(*2*) It is inconsistent with the public interest to apply the restrictions of the Buy American statute; or

(B) The end product is a COTSitem; or

(2) For an end product that consists wholly or predominantly of iron or steel or a combination of both, an end product manufactured in the United States, if the cost of iron and steel not produced in the United States or a qualifying country constitutes less than 5 percent of the cost of all the components used in the end product (produced in the United States or a qualifying country means that all manufacturing processes of the iron or steel must take place in the United States or a qualifying country, except metallurgical processes involving refinement of steel additives). The cost of iron and steel not produced in the United States or a qualifying country includes but is not limited to the cost of iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings, not produced in the United States or a qualifying country, utilized in the manufacture of the end product and a good faith estimate of the cost of all iron or steel components not produced in the United States or a qualifying country, excluding COTS fasteners. Iron or steel components of unknown origin are treated as foreign. If the end product contains multiple components, the cost of all the materials used in such end product is calculated in accordance with the explanation of cost of components in paragraph (1)(ii)(A) of this definition.

\* \* \* \* \*

“Qualifying country end product” means—

(1) An unmanufactured end product mined or produced in a qualifying country; or

(2) An end product manufactured in a qualifying country if—

(i) The cost of the following types of components exceeds ~~50~~**[60]** percent of the cost of all its components**[, except that the percentage will be 65 percent for items delivered in calendar years 2024 through 2028 and 75 percent for items delivered starting in calendar year 2029, unless an alternate percentage is established for a contract]**:

(A) Components mined, produced, or manufactured in a qualifying country.

(B) Components mined, produced, or manufactured in the United States.

(C) Components of foreign origin of a class or kind for which the Government has determined that sufficient and reasonably available commercial quantities of a satisfactory quality are not mined, produced, or manufactured in the United States. Components of unknown origin are treated as foreign; or

(ii) The end product is a COTS item.

\* \* \* \* \*

(c) The Contractor shall deliver under this contract only domestic end products unless, in its offer, it specified delivery of qualifying country**[ or]**~~, or~~ other foreign end products in the Buy American—Free Trade Agreements—Balance of Payments Program Certificate—Alternate I provision of the solicitation. \* \* \*

(End of clause)

*Alternate II*. As prescribed in 225.1101(10)(i) and (10)(i)(C), use the following clause, which adds “South Caucasus/Central and South Asian (SC/CASA) state” and “South Caucasus/Central and South Asian (SC/CASA) state end product” to paragraph (a), and uses a different paragraph (c) than the basic clause:

BUY AMERICAN—FREE TRADE AGREEMENTS—BALANCE OF PAYMENTS

PROGRAM—ALTERNATE II (~~NOV 2023~~**[FEB 2024]**)

(a) *Definitions.* As used in this clause—

\* \* \* \* \*

“Commercially available off-the-shelf (COTS) item”—

(1) Means any item of supply (including construction material) that is—

(i) A commercial product (as defined in paragraph (1) of the definition of “commercial product” in section 2.101 of the Federal Acquisition Regulation**[ (FAR)]**);

\* \* \* \* \*

“Component” means an article, material, or supply incorporated directly into an end product.

**[** **“Critical component” means a component that is mined, produced, or manufactured in the United States and deemed critical to the U.S. supply chain. The list of critical components is at FAR 25.105.**

**“Critical item” means domestic construction material or a domestic end product that is deemed critical to the U.S. supply chain. The list of critical items is at FAR 25.105.]**

“Domestic end product” means—

(1) For an end product that does not consist wholly or predominantly of iron or steel or a combination of both—

(i) An unmanufactured end product mined or produced in the United States; or

(ii) An end product manufactured in the United States if—

(A) The cost of its qualifying country components and its components that are mined, produced, or manufactured in the United States exceeds ~~55~~**[60]** percent of the cost of all its components**[, except that the percentage will be 65 percent for items delivered in calendar years 2024 through 2028 and 75 percent for items delivered starting in calendar year 2029, unless an alternate percentage is established for a contract in accordance with Defense Federal Acquisition Regulation Supplement (DFARS) 225.101(d)); or award is made before January 1, 2030, for a foreign end product that exceeds 55 percent domestic content (see DFARS 225.103(b)(ii))]**. The cost of components includes transportation costs to the place of incorporation into the end product and U.S. duty (whether or not a duty-free entry certificate is issued). Components of unknown origin are treated as foreign. Scrap generated, collected, and prepared for processing in the United States is considered domestic. A component is considered to have been mined, produced, or manufactured in the United States (regardless of its source in fact) if the end product in which it is incorporated is manufactured in the United States and the component is of a class or kind for which the Government has determined that⎯

(*1*) Sufficient and reasonably available commercial quantities of a satisfactory quality are not mined, produced, or manufactured in the United States; or

(*2*) It is inconsistent with the public interest to apply the restrictions of the Buy American statute; or

(~~C~~**[B]**) The end product is a COTS item; or

(2) For an end product that consists wholly or predominantly of iron or steel or a combination of both, an end product manufactured in the United States, if the cost of iron and steel not produced in the United States or a qualifying country constitutes less than 5 percent of the cost of all the components used in the end product (produced in the United States or a qualifying country means that all manufacturing processes of the iron or steel must take place in the United States or a qualifying country, except metallurgical processes involving refinement of steel additives). The cost of iron and steel not produced in the United States or a qualifying country includes but is not limited to the cost of iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings, not produced in the United States or a qualifying country, utilized in the manufacture of the end product and a good faith estimate of the cost of all iron or steel components not produced in the United States or a qualifying country, excluding COTS fasteners. Iron or steel components of unknown origin are treated as foreign. If the end product contains multiple components, the cost of all the materials used in such end product is calculated in accordance with the explanation of cost of components in paragraph (1)(ii)(A) of this definition.

\* \* \* \* \*

“Qualifying country end product” means—

(1) An unmanufactured end product mined or produced in a qualifying country; or

(2) An end product manufactured in a qualifying country if—

(i) The cost of the following types of components exceeds ~~50~~**[60]** percent of the cost of all its components**[, except that the percentage will be 65 percent for items delivered in calendar years 2024 through 2028 and 75 percent for items delivered starting in calendar year 2029, unless an alternate percentage is established for a contract]**:

(A) Components mined, produced, or manufactured in a qualifying country.

(B) Components mined, produced, or manufactured in the United States.

(C) Components of foreign origin of a class or kind for which the Government has determined that sufficient and reasonably available commercial quantities of a satisfactory quality are not mined, produced, or manufactured in the United States. Components of unknown origin are treated as foreign; or

(ii) The end product is a COTS item.

\* \* \* \* \*

(End of clause)

*Alternate III*. As prescribed in 225.1101(10)(i) and (10)(i)(D), use the following clause, which adds “South Caucasus/Central and South Asian (SC/CASA) state” and “South Caucasus/Central and South Asian (SC/CASA) state end product” to paragraph (a) and uses a different paragraph (c) than the basic clause:

BUY AMERICAN—FREE TRADE AGREEMENTS—BALANCE OF PAYMENTS

PROGRAM—ALTERNATE III (~~NOV 2023~~**[FEB 2024]**)

(a) *Definitions.* As used in this clause—

\* \* \* \* \*

“Commercially available off-the-shelf (COTS) item”—

(1) Means any item of supply (including construction material) that is—

(i) A commercial product (as defined in paragraph (1) of the definition of “commercial product” in section 2.101 of the Federal Acquisition Regulation **[(FAR)]**);

\* \* \* \* \*

“Component” means an article, material, or supply incorporated directly into an end product.

**[** **“Critical component” means a component that is mined, produced, or manufactured in the United States and deemed critical to the U.S. supply chain. The list of critical components is at FAR 25.105.**

**“Critical item” means domestic construction material or a domestic end product that is deemed critical to the U.S. supply chain. The list of critical items is at FAR 25.105.]**

“Domestic end product” means—

(1) For an end product that does not consist wholly or predominantly of iron or steel or a combination of both—

(i) An unmanufactured end product mined or produced in the United States; or

(ii) An end product manufactured in the United States if—

(A) The cost of its qualifying country components and its components that are mined, produced, or manufactured in the United States exceeds ~~55~~**[60]** percent of the cost of all its components**[, except that the percentage will be 65 percent for items delivered in calendar years 2024 through 2028 and 75 percent for items delivered starting in calendar year 2029, unless an alternate percentage is established for a contract in accordance with Defense Federal Acquisition Regulation Supplement (DFARS) 225.101(d)); or award is made before January 1, 2030, for a foreign end product that exceeds 55 percent domestic content (see DFARS 225.103(b)(ii))]**. The cost of components includes transportation costs to the place of incorporation into the end product and U.S. duty (whether or not a duty-free entry certificate is issued). Components of unknown origin are treated as foreign. Scrap generated, collected, and prepared for processing in the United States is considered domestic. A component is considered to have been mined, produced, or manufactured in the United States (regardless of its source in fact) if the end product in which it is incorporated is manufactured in the United States and the component is of a class or kind for which the Government has determined that⎯

(*1*) Sufficient and reasonably available commercial quantities of a satisfactory quality are not mined, produced, or manufactured in the United States; or

(*2*) It is inconsistent with the public interest to apply the restrictions of the Buy American statute; or

(B) The end product is a COTS item; or

(2) For an end product that consists wholly or predominantly of iron or steel or a combination of both, an end product manufactured in the United States, if the cost of iron and steel not produced in the United States or a qualifying country constitutes less than 5 percent of the cost of all the components used in the end product (produced in the United States or a qualifying country means that all manufacturing processes of the iron and steel must take place in the United States or a qualifying country, except metallurgical processes involving refinement of steel additives). The cost of iron and steel not produced in the United States or a qualifying country includes but is not limited to the cost of iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings, not produced in the United States or a qualifying country, utilized in the manufacture ofthe end product and a good faith estimate of the cost of all iron or steel components not produced in theUnited States or a qualifying country, excluding COTS fasteners. Iron or steel components of unknown origin are treated as foreign. If the end product contains multiple components, the cost of all the materials used in such end product is calculated in accordance with the explanation of cost of components in paragraph (1)(ii)(A) of this definition.

\* \* \* \* \*

“Qualifying country end product” means*—*

(1) An unmanufactured end product mined or produced in a qualifying country; or

(2) An end product manufactured in a qualifying country if—

(i) The cost of the following types of components exceeds ~~50~~**[60]** percent of the cost of all its components**[, except that the percentage will be 65 percent for items delivered in calendar years 2024 through 2028 and 75 percent for items delivered starting in calendar year 2029, unless an alternate percentage is established for a contract]**:

(A) Components mined, produced, or manufactured in a qualifying country.

(B) Components mined, produced, or manufactured in the United States.

(C) Components of foreign origin of a class or kind for which the Government has determined that sufficient and reasonably available commercial quantities of a satisfactory quality are not mined, produced, or manufactured in the United States. Components of unknown origin are treated as foreign; or

(ii) The end product is a COTS item.

\* \* \* \* \*

(End of clause)

*Alternate IV*. As prescribed in 225.1101(10)(i) and (10)(i)(E), use the following clause, which adds “Korean end product” to paragraph (a), and uses a different paragraph (c) than the basic clause:

BUY AMERICAN—FREE TRADE AGREEMENTS—BALANCE OF PAYMENTS

PROGRAM—ALTERNATE IV (~~NOV 2023~~ **[FEB 2024]**)

(a) *Definitions.* As used in this clause—

\* \* \* \* \*

“Commercially available off-the-shelf (COTS) item”—

(1) Means any item of supply (including construction material) that is—

(i) A commercial product (as defined in paragraph (1) of the definition of “commercial product” in section 2.101 of the Federal Acquisition Regulation **[(FAR)]**);

\* \* \* \* \*

“Component” means an article, material, or supply incorporated directly into an end product.

**[** **“Critical component” means a component that is mined, produced, or manufactured in the United States and deemed critical to the U.S. supply chain. The list of critical components is at FAR 25.105.**

**“Critical item” means domestic construction material or a domestic end product that is deemed critical to the U.S. supply chain. The list of critical items is at FAR 25.105.]**

“Domestic end product” means—

(1) For an end product that does not consist wholly or predominantly of iron or steel or a combination of both—

(i) An unmanufactured end product mined or produced in the United States; or

(ii) An end product manufactured in the United States if—

(A) The cost of its qualifying country components and its components that are mined, produced, or manufactured in the United States exceeds ~~55~~**[60]** percent of the cost of all its components**[, except that the percentage will be 65 percent for items delivered in calendar years 2024 through 2028 and 75 percent for items delivered starting in calendar year 2029, unless an alternate percentage is established for a contract in accordance with Defense Federal Acquisition Regulation Supplement (DFARS) 225.101(d)); or award is made before January 1, 2030, for a foreign end product that exceeds 55 percent domestic content (see DFARS 225.103(b)(ii))]**. The cost of components includes transportation costs to the place of incorporation into the end product and U.S. duty (whether or not a duty-free entry certificate is issued). Components of unknown origin are treated as foreign. Scrap generated, collected, and prepared for processing in the United States is considered domestic. A component is considered to have been mined, produced, or manufactured in the United States (regardless of its source in fact) if the end product in which it is incorporated is manufactured in the United States and the component is of a class or kind for which the Government has determined that⎯

(*1*) Sufficient and reasonably available commercial quantities of a satisfactory quality are not mined, produced, or manufactured in the United States; or

(*2*) It is inconsistent with the public interest to apply the restrictions of the Buy American statute; or

(B) The end product is a COTS item; or

(2) For an end product that consists wholly or predominantly of iron or steel or a combination of both, an end product manufactured in the United States, if the cost of iron and steel not produced in the United States or a qualifying country constitutes less than 5 percent of the cost of all the components used in the end product (produced in the United States or a qualifying country means that all manufacturing processes of the iron or steel must take place in the United States or a qualifying country, except metallurgical processes involving refinement of steel additives). The cost of iron and steel not produced in the United States or a qualifying country includes but is not limited to the cost of iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings, not produced in the United States or a qualifying country, utilized in the manufacture of the end product and a good faith estimate of the cost of all iron or steel components not produced in the United States or a qualifying country, excluding COTS fasteners. Iron or steel components of unknown origin are treated as foreign. If the end product contains multiple components, the cost of all the materials used in such end product is calculated in accordance with the explanation of cost of components in paragraph (1)(ii)(A) of this definition.

\* \* \* \* \*

“Qualifying country end product” means—

(1) An unmanufactured end product mined or produced in a qualifying country; or

(2) An end product manufactured in a qualifying country if—

(i) The cost of the following types of components exceeds ~~50~~**[60]** percent of the cost of all its components**[, except that the percentage will be 65 percent for items delivered in calendar years 2024 through 2028 and 75 percent for items delivered starting in calendar year 2029, unless an alternate percentage is established for a contract]**:

(A) Components mined, produced, or manufactured in a qualifying country.

(B) Components mined, produced, or manufactured in the United States.

(C) Components of foreign origin of a class or kind for which the Government has determined that sufficient and reasonably available commercial quantities of a satisfactory quality are not mined, produced, or manufactured in the United States. Components of unknown origin are treated as foreign; or

(ii) The end product is a COTS item.

\* \* \* \* \*

(End of clause)

*Alternate V*. As prescribed in 225.1101(10)(i) and (10)(i)(F), use the following clause, which adds “Korean end product,” “South Caucasus/Central and South Asian (SC/CASA) state,” and “South Caucasus/Central and South Asian (SC/CASA) state end product” to paragraph (a), and uses a different paragraph (c) than the basic clause:

BUY AMERICAN—FREE TRADE AGREEMENTS—BALANCE OF PAYMENTS

PROGRAM—ALTERNATE V (~~NOV 2023~~**[FEB 2024]**)

(a) *Definitions.* As used in this clause—

\* \* \* \* \*

“Commercially available off-the-shelf (COTS) item”—

(1) Means any item of supply (including construction material) that is—

(i) A commercial product (as defined in paragraph (1) of the definition of “commercial product” in section 2.101 of the Federal Acquisition Regulation **[(FAR)]**);

\* \* \* \* \*

“Component” means an article, material, or supply incorporated directly into an end product.

**[** **“Critical component” means a component that is mined, produced, or manufactured in the United States and deemed critical to the U.S. supply chain. The list of critical components is at FAR 25.105.**

**“Critical item” means domestic construction material or a domestic end product that is deemed critical to the U.S. supply chain. The list of critical items is at FAR 25.105.]**

“Domestic end product” means—

(1) For an end product that does not consist wholly or predominantly of iron or steel or a combination of both—

(i) An unmanufactured end product mined or produced in the United States; or

(ii) An end product manufactured in the United States if—

(A) The cost of its qualifying country components and its components that are mined, produced, or manufactured in the United States exceeds ~~55~~**[60]** percent of the cost of all its components**[, except that the percentage will be 65 percent for items delivered in calendar years 2024 through 2028 and 75 percent for items delivered starting in calendar year 2029, unless an alternate percentage is established for a contract in accordance with Defense Federal Acquisition Regulation Supplement (DFARS) 225.101(d)); or award is made before January 1, 2030, for a foreign end product that exceeds 55 percent domestic content (see DFARS 225.103(b)(ii))]**. The cost of components includes transportation costs to the place of incorporation into the end product and U.S. duty (whether or not a duty-free entry certificate is issued). Components of unknown origin are treated as foreign. Scrap generated, collected, and prepared for processing in the United States is considered domestic. A component is considered to have been mined, produced, or manufactured in the United States (regardless of its source in fact) if the end product in which it is incorporated is manufactured in the United States and the component is of a class or kind for which the Government has determined that⎯

(*1*) Sufficient and reasonably available commercial quantities of a satisfactory quality are not mined, produced, or manufactured in the United States; or

(*2*) It is inconsistent with the public interest to apply the restrictions of the Buy American statute; or

(B) The end product is a COTS item; or

(2) For an end product that consists wholly or predominantly of iron or steel or a combination of both, an end product manufactured in the United States, if the cost of iron and steel not produced in the United States or a qualifying country constitutes less than 5 percent of the cost of all the components used in the end product (produced in the United States or a qualifying country means that all manufacturing processes of the iron or steel must take place in the United States or a qualifying country, except metallurgical processes involving refinement of steel additives). The cost of iron and steel not produced in the United States or a qualifying country includes but is not limited to the cost of iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings, not produced in the United States or a qualifying country, utilized in the manufacture of the end product and a good faith estimate of the cost of all iron or steel components not produced in the United States or a qualifying country, excluding COTS fasteners. Iron or steel components of unknown origin are treated as foreign. If the end product contains multiple components, the cost of all the materials used in such end product is calculated in accordance with the explanation of cost of components in paragraph (1)(ii)(A) of this definition.

\* \* \* \* \*

“Qualifying country end product” means—

(1) An unmanufactured end product mined or produced in a qualifying country; or

(2) An end product manufactured in a qualifying country if—

(i) The cost of the following types of components exceeds ~~50~~**[60]** percent of the cost of all its components**[****, except that the percentage will be 65 percent for items delivered in calendar years 2024 through 2028 and 75 percent for items delivered starting in calendar year 2029, unless an alternate percentage is established for a contract]**:

(A) Components mined, produced, or manufactured in a qualifying country.

(B) Components mined, produced, or manufactured in the United States.

(C) Components of foreign origin of a class or kind for which the Government has determined that sufficient and reasonably available commercial quantities of a satisfactory quality are not mined, produced, or manufactured in the United States. Components of unknown origin are treated as foreign; or

(ii) The end product is a COTS item.

\* \* \* \* \*

(End of clause)

**[*Alternate VI*. As prescribed in 225.1101(10)(i) and (10)(i)(G), use the following clause, which includes, in the definitions of “domestic end product” at paragraph (1)(ii)(A) and “qualifying country end product” at paragraph (2)(i), the domestic content threshold that will apply to the entire contract period of performance:**

**BUY AMERICAN—FREE TRADE AGREEMENTS—BALANCE OF PAYMENTS PROGRAM—ALTERNATE VI (FEB 2024)**

**(a) *Definitions.* As used in this clause—**

**“Bahraini end product” means an article that—**

**(1) Is wholly the growth, product, or manufacture of Bahrain; or**

**(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in Bahrain into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.**

**“Commercially available off-the-shelf (COTS) item”—**

**(1) Means any item of supply (including construction material) that is—**

**(i) A commercial product (as defined in paragraph (1) of the definition of “commercial product” in section 2.101 of the Federal Acquisition Regulation (FAR));**

**(ii) Sold in substantial quantities in the commercial marketplace; and**

**(iii) Offered to the Government, under a contract or subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace; and**

**(2) Does not include bulk cargo, as defined in** [**46 U.S.C. 40102(4)**](https://www.govinfo.gov/link/uscode/46/40102)**, such as agricultural products and petroleum products.**

**“Component” means an article, material, or supply incorporated directly into an end product.**

**“Critical component” means a component that is mined, produced, or manufactured in the United States and deemed critical to the U.S. supply chain. The list of critical components is at FAR 25.105.**

**“Critical item” means domestic construction material or a domestic end product that is deemed critical to the U.S. supply chain. The list of critical items is at FAR 25.105.**

**“Domestic end product” means—**

**(1) For an end product that does not consist wholly or predominantly of iron or steel or a combination of both—**

**(i) An unmanufactured end product mined or produced in the United States; or**

**(ii) An end product manufactured in the United States if—**

**(A) The cost of its qualifying country components and its components that are mined, produced, or manufactured in the United States exceeds, for the entire period of performance for a contract awarded in: calendar year 2023, 60 percent of the cost of all its components; calendar years 2024 through 2028, 65 percent of the cost of all its components; or calendar year 2029 or later, 75 percent of the cost of all its components. The cost of components includes transportation costs to the place of incorporation into the end product and U.S. duty (whether or not a duty-free entry certificate is issued). Components of unknown origin are treated as foreign. Scrap generated, collected, and prepared for processing in the United States is considered domestic. A component is considered to have been mined, produced, or manufactured in the United States (regardless of its source in fact) if the end product in which it is incorporated is manufactured in the United States and the component is of a class or kind for which the Government has determined that⎯**

**(*1*) Sufficient and reasonably available commercial quantities of a satisfactory quality are not mined, produced, or manufactured in the United States; or**

**(*2*) It is inconsistent with the public interest to apply the restrictions of the Buy American statute; or**

**(B) The end product is a COTS item; or**

**(2) For an end product that consists wholly or predominantly of iron or steel or a combination of both, an end product manufactured in the United States, if the cost of iron and steel not produced in the United States or a qualifying country constitutes less than 5 percent of the cost of all the components used in the end product (produced in the United States or a qualifying country means that all manufacturing processes of the iron or steel must take place in the United States or a qualifying country, except metallurgical processes involving refinement of steel additives). The cost of iron and steel not produced in the United States or a qualifying country includes but is not limited to the cost of iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings, not produced in the United States or a qualifying country, utilized in the manufacture of the end product and a good faith estimate of the cost of all iron or steel components not produced in the United States or a qualifying country, excluding COTS fasteners. Iron or steel components of unknown origin are treated as foreign. If the end product contains multiple components, the cost of all the materials used in such end product is calculated in accordance with the explanation of cost of components in paragraph (1)(ii)(A) of this definition.**

**“End product” means those articles, materials, and supplies to be acquired under this contract for public use.**

**“Foreign end product” means an end product other than a domestic end product.**

**“Free Trade Agreement country” means Australia, Bahrain, Chile, Colombia, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Korea (Republic of), Mexico, Morocco, Nicaragua, Panama, Peru, or Singapore.**

**“Free Trade Agreement country end product” means an article that–**

**(1) Is wholly the growth, product, or manufacture of a Free Trade Agreement country; or**

**(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a Free Trade Agreement country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.**

**“Moroccan end product” means an article that–**

**(1) Is wholly the growth, product, or manufacture of Morocco; or**

**(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in Morocco into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.**

**“Panamanian end product” means an article that–**

**(1) Is wholly the growth, product, or manufacture of Panama; or**

**(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in Panama into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.**

**“Peruvian end product” means an article that–**

**(1) Is wholly the growth, product, or manufacture of Peru; or**

**(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in Peru into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.**

**“Predominantly of iron or steel or a combination of both” means that the cost of the iron and steel content exceeds 50 percent of the total cost of all its components. The cost of iron and steel is the cost of the iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings utilized in the manufacture of the product and a good faith estimate of the cost of iron or steel components excluding COTS fasteners.**

**“Qualifying country” means a country with a reciprocal defense procurement memorandum of understanding or international agreement with the United States in which both countries agree to remove barriers to purchases of supplies produced in the other country or services performed by sources of the other country, and the memorandum or agreement complies, where applicable, with the requirements of section 36 of the Arms Export Control Act (**[**22 U.S.C. 2776**](https://www.govinfo.gov/link/uscode/22/2776)**) and with** [**10 U.S.C. 2457**](https://www.govinfo.gov/link/uscode/10/2457)**. Accordingly, the following are qualifying countries:**

**Australia**

**Austria**

**Belgium**

**Canada**

**Czech Republic**

**Denmark**

**Egypt**

**Estonia**

**Finland**

**France**

**Germany**

**Greece**

**Israel**

**Italy**

**Japan**

**Latvia**

**Lithuania**

**Luxembourg**

**Netherlands**

**Norway**

**Poland**

**Portugal**

**Slovenia**

**Spain**

**Sweden**

**Switzerland**

**Turkey**

**United Kingdom of Great Britain and Northern Ireland.**

**“Qualifying country component” means a component mined, produced, or manufactured in a qualifying country.**

***“*Qualifying country end product” means—**

**(1) An unmanufactured end product mined or produced in a qualifying country; or**

**(2) An end product manufactured in a qualifying country if—**

**(i) The cost of the following types of components exceeds,** **for the entire period of performance for a contract awarded in: calendar year 2023, 60 percent of the cost of all its components; calendar years 2024 through 2028, 65 percent of the cost of all its components; or calendar year 2029 or later, 75 percent of the cost of all its components:**

**(A) Components mined, produced, or manufactured in a qualifying country.**

**(B) Components mined, produced, or manufactured in the United States.**

**(C) Components of foreign origin of a class or kind for which the Government has determined that sufficient and reasonably available commercial quantities of a satisfactory quality are not mined, produced, or manufactured in the United States. Components of unknown origin are treated as foreign; or**

**(ii) The end product is a COTS item.**

**“Steel” means an alloy that includes at least 50 percent iron, between 0.02 and 2 percent carbon, and may include other elements.**

**“United States” means the 50 States, the District of Columbia, and outlying areas.**

**(b) Unless otherwise specified, this clause applies to all items in the Schedule.**

**(c) The Contractor shall deliver under this contract only domestic end products unless, in its offer, it specified delivery of qualifying country end products, Free Trade Agreement country end products other than Bahraini end products, Moroccan end products, Panamanian end products, or Peruvian end products, or other foreign end products in the Buy American—Free Trade Agreements—Balance of Payments Program Certificate—Basic provision of the solicitation. If the Contractor certified in its offer that it will deliver a qualifying country end product or a Free Trade Agreement country end product other than a Bahraini end product, a Moroccan end product, a Panamanian end product, or a Peruvian end product, the Contractor shall deliver a qualifying country end product, a Free Trade Agreement country end product other than a Bahraini end product, a Moroccan end product, a Panamanian end product, or a Peruvian end product, or, at the Contractor's option, a domestic end product.**

**(d) The contract price does not include duty for end products or components for which the Contractor will claim duty-free entry.**

**(End of clause)**

***Alternate VII*. As prescribed in 225.1101(10)(i) and (10)(i)(H), use the following clause, which includes, in the definitions of “domestic end product” at paragraph (1)(ii)(A) and “qualifying country end product” at paragraph (2)(i), the domestic content threshold that will apply to the entire contract period of performance and uses a different paragraph (c) than the basic clause:**

**BUY AMERICAN—FREE TRADE AGREEMENTS—BALANCE OF PAYMENTS**

**PROGRAM—ALTERNATE VII (FEB 2024)**

**(a) *Definitions.* As used in this clause—**

**“Bahraini end product” means an article that—**

**(1) Is wholly the growth, product, or manufacture of Bahrain; or**

**(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in Bahrain into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.**

**“Commercially available off-the-shelf (COTS) item”—**

**(1) Means any item of supply (including construction material) that is—**

**(i) A commercial product (as defined in paragraph (1) of the definition of “commercial product” in section 2.101 of the Federal Acquisition Regulation (FAR));**

**(ii) Sold in substantial quantities in the commercial marketplace; and**

**(iii) Offered to the Government, under a contract or subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace; and**

**(2) Does not include bulk cargo, as defined in 46 U.S.C. 40102(4), such as agricultural products and petroleum products.**

**“Component” means an article, material, or supply incorporated directly into an end product.**

**“Critical component” means a component that is mined, produced, or manufactured in the United States and deemed critical to the U.S. supply chain. The list of critical components is at FAR 25.105.**

**“Critical item” means domestic construction material or a domestic end product that is deemed critical to the U.S. supply chain. The list of critical items is at FAR 25.105.**

**“Domestic end product” means—**

**(1) For an end product that does not consist wholly or predominantly of iron or steel or a combination of both—**

**(i) An unmanufactured end product mined or produced in the United States; or**

**(ii) An end product manufactured in the United States if—**

**(A) The cost of its qualifying country components and its components that are mined, produced, or manufactured in the United States exceeds, for the entire period of performance for a contract awarded in: calendar year 2023, 60 percent of the cost of all its components; calendar years 2024 through 2028, 65 percent of the cost of all its components; or calendar year 2029 or later, 75 percent of the cost of all its components. The cost of components includes transportation costs to the place of incorporation into the end product and U.S. duty (whether or not a duty-free entry certificate is issued). Components of unknown origin are treated as foreign. Scrap generated, collected, and prepared for processing in the United States is considered domestic. A component is considered to have been mined, produced, or manufactured in the United States (regardless of its source in fact) if the end product in which it is incorporated is manufactured in the United States and the component is of a class or kind for which the Government has determined that⎯**

**(*1*) Sufficient and reasonably available commercial quantities of a satisfactory quality are not mined, produced, or manufactured in the United States; or**

**(*2*) It is inconsistent with the public interest to apply the restrictions of the Buy American statute; or**

**(B) The end product is a COTS item; or**

**(2) For an end product that consists wholly or predominantly of iron or steel or a combination of both, an end product manufactured in the United States, if the cost of iron and steel not produced in the United States or a qualifying country constitutes less than 5 percent of the cost of all the components used in the end product (produced in the United States or a qualifying country means that all manufacturing processes of the iron or steel must take place in the United States or a qualifying country, except metallurgical processes involving refinement of steel additives). The cost of iron and steel not produced in the United States or a qualifying country includes but is not limited to the cost of iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings, not produced in the United States or a qualifying country, utilized in the manufacture of the end product and a good faith estimate of the cost of all iron or steel components not produced in the United States or a qualifying country, excluding COTS fasteners. Iron or steel components of unknown origin are treated as foreign. If the end product contains multiple components, the cost of all the materials used in such end product is calculated in accordance with the explanation of cost of components in paragraph (1)(ii)(A) of this definition.**

**“End product” means those articles, materials, and supplies to be acquired under this contract for public use.**

**“Foreign end product” means an end product other than a domestic end product.**

**“Free Trade Agreement country” means Australia, Bahrain, Chile, Colombia, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Korea (Republic of), Mexico, Morocco, Nicaragua, Panama, Peru, or Singapore.**

**“Free Trade Agreement country end product” means an article that—**

**(1) Is wholly the growth, product, or manufacture of a Free Trade Agreement country; or**

**(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a Free Trade Agreement country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.**

**“Moroccan end product” means an article that—**

**(1) Is wholly the growth, product, or manufacture of Morocco; or**

**(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in Morocco into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.**

**“Panamanian end product” means an article that—**

**(1) Is wholly the growth, product, or manufacture of Panama; or**

**(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in Panama into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.**

**“Peruvian end product” means an article that—**

**(1) Is wholly the growth, product, or manufacture of Peru; or**

**(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in Peru into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.**

**“Predominantly of iron or steel or a combination of both” means that the cost of the iron and steel content exceeds 50 percent of the total cost of all its components. The cost of iron and steel is the cost of the iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings utilized in the manufacture of the product and a good faith estimate of the cost of iron or steel components excluding COTS fasteners.**

**“Qualifying country” means a country with a reciprocal defense procurement memorandum of understanding or international agreement with the United States in which both countries agree to remove barriers to purchases of supplies produced in the other country or services performed by sources of the other country, and the memorandum or agreement complies, where applicable, with the requirements of section 36 of the Arms Export Control Act (22 U.S.C. 2776) and with 10 U.S.C. 2457. Accordingly, the following are qualifying countries:**

**Australia**

**Austria**

**Belgium**

**Canada**

**Czech Republic**

**Denmark**

**Egypt**

**Estonia**

**Finland**

**France**

**Germany**

**Greece**

**Israel**

**Italy**

**Japan**

**Latvia**

**Lithuania**

**Luxembourg**

**Netherlands**

**Norway**

**Poland**

**Portugal**

**Slovenia**

**Spain**

**Sweden**

**Switzerland**

**Turkey**

**United Kingdom of Great Britain and Northern Ireland.**

**“Qualifying country component” means a component mined, produced, or manufactured in a qualifying country.**

**“Qualifying country end product” means—**

**(1) An unmanufactured end product mined or produced in a qualifying country; or**

**(2) An end product manufactured in a qualifying country if—**

**(i) The cost of the following types of components exceeds, for the entire period of performance for a contract awarded in: calendar year 2023, 60 percent of the cost of all its components; calendar years 2024 through 2028, 65 percent of the cost of all its components; or calendar year 2029 or later, 75 percent of the cost of all its components:**

**(A) Components mined, produced, or manufactured in a qualifying country.**

**(B) Components mined, produced, or manufactured in the United States.**

**(C) Components of foreign origin of a class or kind for which the Government has determined that sufficient and reasonably available commercial quantities of a satisfactory quality are not mined, produced, or manufactured in the United States. Components of unknown origin are treated as foreign; or**

**(ii) The end product is a COTS item.**

**“Steel” means an alloy that includes at least 50 percent iron, between 0.02 and 2 percent carbon, and may include other elements.**

**“United States” means the 50 States, the District of Columbia, and outlying areas.**

**(b) Unless otherwise specified, this clause applies to all items in the Schedule.**

**(c) The Contractor shall deliver under this contract only domestic end products unless, in its offer, it specified delivery of qualifying country or other foreign end products in the Buy American—Free Trade Agreements—Balance of Payments Program Certificate—Alternate I provision of the solicitation. If the Contractor certified in its offer that it will deliver a qualifying country end product, the Contractor shall deliver a qualifying country end product or, at the Contractor's option, a domestic end product.**

**(d) The contract price does not include duty for end products or components for which the Contractor will claim duty-free entry.**

**(End of clause)**

***Alternate VIII*. As prescribed in 225.1101(10)(i) and (10)(i)(I), use the following clause, which includes, in the definitions of “domestic end product” at paragraph (1)(ii)(A) and “qualifying country end product” at paragraph (2)(i), the domestic content threshold that will apply to the entire contract period of performance; adds “South Caucasus/Central and South Asian (SC/CASA) state” and “South Caucasus/Central and South Asian (SC/CASA) state end product” to paragraph (a); and uses a different paragraph (c) than the basic clause:**

**BUY AMERICAN—FREE TRADE AGREEMENTS—BALANCE OF PAYMENTS**

**PROGRAM—ALTERNATE VIII (FEB 2024)**

**(a) *Definitions.* As used in this clause—**

**“Bahraini end product” means an article that—**

**(1) Is wholly the growth, product, or manufacture of Bahrain; or**

**(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in Bahrain into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.**

**“Commercially available off-the-shelf (COTS) item”—**

**(1) Means any item of supply (including construction material) that is—**

**(i) A commercial product (as defined in paragraph (1) of the definition of “commercial product” in section 2.101 of the Federal Acquisition Regulation (FAR));**

**(ii) Sold in substantial quantities in the commercial marketplace; and**

**(iii) Offered to the Government, under a contract or subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace; and**

**(2) Does not include bulk cargo, as defined in 46 U.S.C. 40102(4), such as agricultural products and petroleum products.**

**“Component” means an article, material, or supply incorporated directly into an end product.**

**“Critical component” means a component that is mined, produced, or manufactured in the United States and deemed critical to the U.S. supply chain. The list of critical components is at FAR 25.105.**

**“Critical item” means domestic construction material or a domestic end product that is deemed critical to the U.S. supply chain. The list of critical items is at FAR 25.105.**

**“Domestic end product” means—**

**(1) For an end product that does not consist wholly or predominantly of iron or steel or a combination of both—**

**(i) An unmanufactured end product mined or produced in the United States; or**

**(ii) An end product manufactured in the United States if—**

**(A) The cost of its qualifying country components and its components that are mined, produced, or manufactured in the United States exceeds, for the entire period of performance for a contract awarded in: calendar year 2023, 60 percent of the cost of all its components; calendar years 2024 through 2028, 65 percent of the cost of all its components; or calendar year 2029 or later, 75 percent of the cost of all its components. The cost of components includes transportation costs to the place of incorporation into the end product and U.S. duty (whether or not a duty-free entry certificate is issued). Components of unknown origin are treated as foreign. Scrap generated, collected, and prepared for processing in the United States is considered domestic. A component is considered to have been mined, produced, or manufactured in the United States (regardless of its source in fact) if the end product in which it is incorporated is manufactured in the United States and the component is of a class or kind for which the Government has determined that⎯**

**(*1*) Sufficient and reasonably available commercial quantities of a satisfactory quality are not mined, produced, or manufactured in the United States; or**

**(*2*) It is inconsistent with the public interest to apply the restrictions of the Buy American statute; or**

**(B) The end product is a COTS item; or**

**(2) For an end product that consists wholly or predominantly of iron or steel or a combination of both, an end product manufactured in the United States, if the cost of iron and steel not produced in the United States or a qualifying country constitutes less than 5 percent of the cost of all the components used in the end product (produced in the United States or a qualifying country means that all manufacturing processes of the iron or steel must take place in the United States or a qualifying country, except metallurgical processes involving refinement of steel additives). The cost of iron and steel not produced in the United States or a qualifying country includes but is not limited to the cost of iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings, not produced in the United States or a qualifying country, utilized in the manufacture of the end product and a good faith estimate of the cost of all iron or steel components not produced in the United States or a qualifying country, excluding COTS fasteners. Iron or steel components of unknown origin are treated as foreign. If the end product contains multiple components, the cost of all the materials used in such end product is calculated in accordance with the explanation of cost of components in paragraph (1)(ii)(A) of this definition.**

**“End product” means those articles, materials, and supplies to be acquired under this contract for public use.**

**“Foreign end product” means an end product other than a domestic end product.**

**“Free Trade Agreement country” means Australia, Bahrain, Chile, Colombia, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Korea (Republic of), Mexico, Morocco, Nicaragua, Panama, Peru, or Singapore.**

**“Free Trade Agreement country end product” means an article that—**

**(1) Is wholly the growth, product, or manufacture of a Free Trade Agreement country; or**

**(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a Free Trade Agreement country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.**

**“Moroccan end product” means an article that—**

**(1) Is wholly the growth, product, or manufacture of Morocco; or**

**(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in Morocco into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.**

**“Panamanian end product” means an article that—**

**(1) Is wholly the growth, product, or manufacture of Panama; or**

**(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in Panama into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.**

**“Peruvian end product” means an article that—**

**(1) Is wholly the growth, product, or manufacture of Peru; or**

**(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in Peru into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.**

**“Predominantly of iron or steel or a combination of both” means that the cost of the iron and steel content exceeds 50 percent of the total cost of all its components. The cost of iron and steel is the cost of the iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings utilized in the manufacture of the product and a good faith estimate of the cost of iron or steel components excluding COTS fasteners.**

**“Qualifying country” means a country with a reciprocal defense procurement memorandum of understanding or international agreement with the United States in which both countries agree to remove barriers to purchases of supplies produced in the other country or services performed by sources of the other country, and the memorandum or agreement complies, where applicable, with the requirements of section 36 of the Arms Export Control Act (22 U.S.C. 2776) and with 10 U.S.C. 2457. Accordingly, the following are qualifying countries:**

**Australia**

**Austria**

**Belgium**

**Canada**

**Czech Republic**

**Denmark**

**Egypt**

**Estonia**

**Finland**

**France**

**Germany**

**Greece**

**Israel**

**Italy**

**Japan**

**Latvia**

**Lithuania**

**Luxembourg**

**Netherlands**

**Norway**

**Poland**

**Portugal**

**Slovenia**

**Spain**

**Sweden**

**Switzerland**

**Turkey**

**United Kingdom of Great Britain and Northern Ireland.**

**“Qualifying country component” means a component mined, produced, or manufactured in a qualifying country.**

**“Qualifying country end product” means—**

**(1) An unmanufactured end product mined or produced in a qualifying country; or**

**(2) An end product manufactured in a qualifying country if—**

**(i) The cost of the following types of components exceeds, for the entire period of performance for a contract awarded in: calendar year 2023, 60 percent of the cost of all its components; calendar years 2024 through 2028, 65 percent of the cost of all its components; or calendar year 2029 or later, 75 percent of the cost of all its components:**

**(A) Components mined, produced, or manufactured in a qualifying country.**

**(B) Components mined, produced, or manufactured in the United States.**

**(C) Components of foreign origin of a class or kind for which the Government has determined that sufficient and reasonably available commercial quantities of a satisfactory quality are not mined, produced, or manufactured in the United States. Components of unknown origin are treated as foreign; or**

**(ii) The end product is a COTS item.**

**“South Caucasus/Central and South Asian (SC/CASA) state” means Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Pakistan, Tajikistan, Turkmenistan, or Uzbekistan.**

**“South Caucasus/Central and South Asian (SC/CASA) state end product” means an article that—**

**(1) Is wholly the growth, product, or manufacture of an SC/CASA state; or**

**(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in an SC/CASA state into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.**

**“Steel” means an alloy that includes at least 50 percent iron, between 0.02 and 2 percent carbon, and may include other elements.**

**“United States” means the 50 States, the District of Columbia, and outlying areas.**

**(b) Unless otherwise specified, this clause applies to all items in the Schedule.**

**(c) The Contractor shall deliver under this contract only domestic end products unless, in its offer, it specified delivery of qualifying country end products, SC/CASA state end products, Free Trade Agreement country end products other than Bahraini end products, Moroccan end products, Panamanian end products, or Peruvian end products, or other foreign end products in the Buy American—Free Trade Agreements—Balance of Payments Program Certificate—Alternate II provision of the solicitation. If the Contractor certified in its offer that it will deliver a qualifying country end product, SC/CASA state end products, or a Free Trade Agreement country end product other than a Bahraini end product, a Moroccan end product, a Panamanian end product, or a Peruvian end product, the Contractor shall deliver a qualifying country end product, an SC/CASA state end product, a Free Trade Agreement country end product other than a Bahraini end product, a Moroccan end product, a Panamanian end product, or a Peruvian end product or, at the Contractor's option, a domestic end product.**

**(d) The contract price does not include duty for end products or components for which the Contractor will claim duty-free entry.**

**(End of clause)**

***Alternate IX*. As prescribed in 225.1101(10)(i) and (10)(i)(J), use the following clause, which includes in the definitions of “domestic end product” at paragraph (1)(ii)(A) and “qualifying country end product” at paragraph (2)(i) the domestic content threshold that will apply to the entire contract period of performance; adds “South Caucasus/Central and South Asian (SC/CASA) state” and “South Caucasus/Central and South Asian (SC/CASA) state end product” to paragraph (a); and uses a different paragraph (c) than the basic clause:**

**BUY AMERICAN—FREE TRADE AGREEMENTS—BALANCE OF PAYMENTS**

**PROGRAM—ALTERNATE IX (FEB 2024)**

**(a) *Definitions.* As used in this clause—**

**“Bahraini end product” means an article that—**

**(1) Is wholly the growth, product, or manufacture of Bahrain; or**

**(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in Bahrain into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.**

**“Commercially available off-the-shelf (COTS) item”—**

**(1) Means any item of supply (including construction material) that is—**

**(i) A commercial product (as defined in paragraph (1) of the definition of “commercial product” in section 2.101 of the Federal Acquisition Regulation (FAR));**

**(ii) Sold in substantial quantities in the commercial marketplace; and**

**(iii) Offered to the Government, under a contract or subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace; and**

**(2) Does not include bulk cargo, as defined in 46 U.S.C. 40102(4), such as agricultural products and petroleum products.**

**“Component” means an article, material, or supply incorporated directly into an end product.**

**“Critical component” means a component that is mined, produced, or manufactured in the United States and deemed critical to the U.S. supply chain. The list of critical components is at FAR 25.105.**

**“Critical item” means domestic construction material or a domestic end product that is deemed critical to the U.S. supply chain. The list of critical items is at FAR 25.105.**

**“Domestic end product” means—**

**(1) For an end product that does not consist wholly or predominantly of iron or steel or a combination of both—**

**(i) An unmanufactured end product mined or produced in the United States; or**

**(ii) An end product manufactured in the United States if—**

**(A) The cost of its qualifying country components and its components that are mined, produced, or manufactured in the United States exceeds, for the entire period of performance for a contract awarded in: calendar year 2023, 60 percent of the cost of all its components; calendar years 2024 through 2028, 65 percent of the cost of all its components; or calendar year 2029 or later, 75 percent of the cost of all its components. The cost of components includes transportation costs to the place of incorporation into the end product and U.S. duty (whether or not a duty-free entry certificate is issued). Components of unknown origin are treated as foreign. Scrap generated, collected, and prepared for processing in the United States is considered domestic. A component is considered to have been mined, produced, or manufactured in the United States (regardless of its source in fact) if the end product in which it is incorporated is manufactured in the United States and the component is of a class or kind for which the Government has determined that⎯**

**(*1*) Sufficient and reasonably available commercial quantities of a satisfactory quality are not mined, produced, or manufactured in the United States; or**

**(*2*) It is inconsistent with the public interest to apply the restrictions of the Buy American statute; or**

**(B) The end product is a COTS item; or**

**(2) For an end product that consists wholly or predominantly of iron or steel or a combination of both, an end product manufactured in the United States, if the cost of iron and steel not produced in the United States or a qualifying country constitutes less than 5 percent of the cost of all the components used in the end product (produced in the United States or a qualifying country means that all manufacturing processes of the iron and steel must take place in the United States or a qualifying country, except metallurgical processes involving refinement of steel additives). The cost of iron and steel not produced in the United States or a qualifying country includes but is not limited to the cost of iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings, not produced in the United States or a qualifying country, utilized in the manufacture of the end product and a good faith estimate of the cost of all iron or steel components not produced in the United States or a qualifying country, excluding COTS fasteners. Iron or steel components of unknown origin are treated as foreign. If the end product contains multiple components, the cost of all the materials used in such end product is calculated in accordance with the explanation of cost of components in paragraph (1)(ii)(A) of this definition.**

**“End product” means those articles, materials, and supplies to be acquired under this contract for public use.**

**“Foreign end product” means an end product other than a domestic end product.**

**“Free Trade Agreement country” means Australia, Bahrain, Chile, Colombia, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Korea (Republic of), Mexico, Morocco, Nicaragua, Panama, Peru, or Singapore.**

**“Free Trade Agreement country end product” means an article that—**

**(1) Is wholly the growth, product, or manufacture of a Free Trade Agreement country; or**

**(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a Free Trade Agreement country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.**

**“Moroccan end product” means an article that—**

**(1) Is wholly the growth, product, or manufacture of Morocco; or**

**(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in Morocco into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.**

**“Panamanian end product” means an article that—**

**(1) Is wholly the growth, product, or manufacture of Panama; or**

**(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in Panama into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.**

**“Peruvian end product” means an article that—**

**(1) Is wholly the growth, product, or manufacture of Peru; or**

**(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in Peru into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.**

**“Predominantly of iron or steel or a combination of both” means that the cost of the iron and steel content exceeds 50 percent of the total cost of all its components. The cost of iron and steel is the cost of the iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings utilized in the manufacture of the product and a good faith estimate of the cost of iron or steel components excluding COTS fasteners.**

**“Qualifying country” means a country with a reciprocal defense procurement memorandum of understanding or international agreement with the United States in which both countries agree to remove barriers to purchases of supplies produced in the other country or services performed by sources of the other country, and the memorandum or agreement complies, where applicable, with the requirements of section 36 of the Arms Export Control Act (22 U.S.C. 2776) and with 10 U.S.C. 2457. Accordingly, the following are qualifying countries:**

**Australia**

**Austria**

**Belgium**

**Canada**

**Czech Republic**

**Denmark**

**Egypt**

**Estonia**

**Finland**

**France**

**Germany**

**Greece**

**Israel**

**Italy**

**Japan**

**Latvia**

**Lithuania**

**Luxembourg**

**Netherlands**

**Norway**

**Poland**

**Portugal**

**Slovenia**

**Spain**

**Sweden**

**Switzerland**

**Turkey**

**United Kingdom of Great Britain and Northern Ireland.**

**“Qualifying country component” means a component mined, produced, or manufactured in a qualifying country.**

**“Qualifying country end product” means*—***

**(1) An unmanufactured end product mined or produced in a qualifying country; or**

**(2) An end product manufactured in a qualifying country if—**

**(i) The cost of the following types of components exceeds, for the entire period of performance for a contract awarded in: calendar year 2023, 60 percent of the cost of all its components; calendar years 2024 through 2028, 65 percent of the cost of all its components; or calendar year 2029 or later, 75 percent of the cost of all its components:**

**(A) Components mined, produced, or manufactured in a qualifying country.**

**(B) Components mined, produced, or manufactured in the United States.**

**(C) Components of foreign origin of a class or kind for which the Government has determined that sufficient and reasonably available commercial quantities of a satisfactory quality are not mined, produced, or manufactured in the United States. Components of unknown origin are treated as foreign; or**

**(ii) The end product is a COTS item.**

**“South Caucasus/Central and South Asian (SC/CASA) state” means Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Pakistan, Tajikistan, Turkmenistan, or Uzbekistan.**

**“South Caucasus/Central and South Asian (SC/CASA) state end product” means an article that—**

**(1) Is wholly the growth, product, or manufacture of an SC/CASA state; or**

**(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in an SC/CASA state into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.**

**“Steel” means an alloy that includes at least 50 percent iron, between 0.02 and 2 percent carbon, and may include other elements.**

**“United States” means the 50 States, the District of Columbia, and outlying areas.**

**(b) Unless otherwise specified, this clause applies to all items in the Schedule.**

**(c) The Contractor shall deliver under this contract only domestic end products unless, in its offer, it specified delivery of qualifying country end products, SC/CASA state end products, or other foreign end products in the Buy American—Free Trade Agreements—Balance of Payments Program Certificate—Alternate III provision of the solicitation. If the Contractor certified in its offer that it will deliver a qualifying country end product or SC/CASA state end products, the Contractor shall deliver a qualifying country end product, an SC/CASA state end product, or, at the Contractor's option, a domestic end product.**

**(d) The contract price does not include duty for end products or components for which the Contractor will claim duty-free entry.**

**(End of clause)**

***Alternate X*. As prescribed in 225.1101(10)(i) and (10)(i)(K), use the following clause, which includes, in the definitions of “domestic end product” at paragraph (1)(ii)(A) and “qualifying country end product” at paragraph (2)(i), the domestic content threshold that will apply to the entire contract period of performance; adds “Korean end product” to paragraph (a); and uses a different paragraph (c) than the basic clause:**

**BUY AMERICAN—FREE TRADE AGREEMENTS—BALANCE OF PAYMENTS**

**PROGRAM—ALTERNATE X (FEB 2024)**

**(a) *Definitions.* As used in this clause—**

**“Bahraini end product” means an article that—**

**(1) Is wholly the growth, product, or manufacture of Bahrain; or**

**(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in Bahrain into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.**

**“Commercially available off-the-shelf (COTS) item”—**

**(1) Means any item of supply (including construction material) that is—**

**(i) A commercial product (as defined in paragraph (1) of the definition of “commercial product” in section 2.101 of the Federal Acquisition Regulation (FAR));**

**(ii) Sold in substantial quantities in the commercial marketplace; and**

**(iii) Offered to the Government, under a contract or subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace; and**

**(2) Does not include bulk cargo, as defined in 46 U.S.C. 40102(4), such as agricultural products and petroleum products.**

**“Component” means an article, material, or supply incorporated directly into an end product.**

**“Critical component” means a component that is mined, produced, or manufactured in the United States and deemed critical to the U.S. supply chain. The list of critical components is at FAR 25.105.**

**“Critical item” means domestic construction material or a domestic end product that is deemed critical to the U.S. supply chain. The list of critical items is at FAR 25.105.**

**“Domestic end product” means—**

**(1) For an end product that does not consist wholly or predominantly of iron or steel or a combination of both—**

**(i) An unmanufactured end product mined or produced in the United States; or**

**(ii) An end product manufactured in the United States if—**

**(A) The cost of its qualifying country components and its components that are mined, produced, or manufactured in the United States exceeds, for the entire period of performance for a contract awarded in: calendar year 2023, 60 percent of the cost of all its components; calendar years 2024 through 2028, 65 percent of the cost of all its components; or calendar year 2029 or later, 75 percent of the cost of all its components. The cost of components includes transportation costs to the place of incorporation into the end product and U.S. duty (whether or not a duty-free entry certificate is issued). Components of unknown origin are treated as foreign. Scrap generated, collected, and prepared for processing in the United States is considered domestic. A component is considered to have been mined, produced, or manufactured in the United States (regardless of its source in fact) if the end product in which it is incorporated is manufactured in the United States and the component is of a class or kind for which the Government has determined that⎯**

**(*1*) Sufficient and reasonably available commercial quantities of a satisfactory quality are not mined, produced, or manufactured in the United States; or**

**(*2*) It is inconsistent with the public interest to apply the restrictions of the Buy American statute; or**

**(B) The end product is a COTS item; or**

**(2) For an end product that consists wholly or predominantly of iron or steel or a combination of both, an end product manufactured in the United States, if the cost of iron and steel not produced in the United States or a qualifying country constitutes less than 5 percent of the cost of all the components used in the end product (produced in the United States or a qualifying country means that all manufacturing processes of the iron or steel must take place in the United States or a qualifying country, except metallurgical processes involving refinement of steel additives). The cost of iron and steel not produced in the United States or a qualifying country includes but is not limited to the cost of iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings, not produced in the United States or a qualifying country, utilized in the manufacture of the end product and a good faith estimate of the cost of all iron or steel components not produced in the United States or a qualifying country, excluding COTS fasteners. Iron or steel components of unknown origin are treated as foreign. If the end product contains multiple components, the cost of all the materials used in such end product is calculated in accordance with the explanation of cost of components in paragraph (1)(ii)(A) of this definition.**

**“End product” means those articles, materials, and supplies to be acquired under this contract for public use.**

**“Foreign end product” means an end product other than a domestic end product.**

**“Free Trade Agreement country” means Australia, Bahrain, Chile, Colombia, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Korea (Republic of), Mexico, Morocco, Nicaragua, Panama, Peru, or Singapore.**

**“Free Trade Agreement country end product” means an article that—**

**(1) Is wholly the growth, product, or manufacture of a Free Trade Agreement country; or**

**(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a Free Trade Agreement country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.**

**“Korean end product” means an article that—**

**(1) Is wholly the growth, product, or manufacture of Korea; or**

**(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in Korea (Republic of) into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product, includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.**

**“Moroccan end product” means an article that—**

**(1) Is wholly the growth, product, or manufacture of Morocco; or**

**(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in Morocco into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.**

**“Panamanian end product” means an article that—**

**(1) Is wholly the growth, product, or manufacture of Panama; or**

**(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in Panama into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.**

**“Peruvian end product” means an article that—**

**(1) Is wholly the growth, product, or manufacture of Peru; or**

**(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in Peru into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.**

**“Predominantly of iron or steel or a combination of both” means that the cost of the iron and steel content exceeds 50 percent of the total cost of all its components. The cost of iron and steel is the cost of the iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings utilized in the manufacture of the product and a good faith estimate of the cost of iron or steel components excluding COTS fasteners.**

**“Qualifying country” means a country with a reciprocal defense procurement memorandum of understanding or international agreement with the United States in which both countries agree to remove barriers to purchases of supplies produced in the other country or services performed by sources of the other country, and the memorandum or agreement complies, where applicable, with the requirements of section 36 of the Arms Export Control Act (22 U.S.C. 2776) and with 10 U.S.C. 2457. Accordingly, the following are qualifying countries:**

**Australia**

**Austria**

**Belgium**

**Canada**

**Czech Republic**

**Denmark**

**Egypt**

**Estonia**

**Finland**

**France**

**Germany**

**Greece**

**Israel**

**Italy**

**Japan**

**Latvia**

**Lithuania**

**Luxembourg**

**Netherlands**

**Norway**

**Poland**

**Portugal**

**Slovenia**

**Spain**

**Sweden**

**Switzerland**

**Turkey**

**United Kingdom of Great Britain and Northern Ireland.**

**“Qualifying country component” means a component mined, produced, or manufactured in a qualifying country.**

**“Qualifying country end product” means—**

**(1) An unmanufactured end product mined or produced in a qualifying country; or**

**(2) An end product manufactured in a qualifying country if—**

**(i) The cost of the following types of components exceeds, for the entire period of performance for a contract awarded in: calendar year 2023, 60 percent of the cost of all its components; calendar years 2024 through 2028, 65 percent of the cost of all its components; or calendar year 2029 or later, 75 percent of the cost of all its components:**

**(A) Components mined, produced, or manufactured in a qualifying country.**

**(B) Components mined, produced, or manufactured in the United States.**

**(C) Components of foreign origin of a class or kind for which the Government has determined that sufficient and reasonably available commercial quantities of a satisfactory quality are not mined, produced, or manufactured in the United States. Components of unknown origin are treated as foreign; or**

**(ii) The end product is a COTS item.**

**“Steel” means an alloy that includes at least 50 percent iron, between 0.02 and 2 percent carbon, and may include other elements.**

**“United States” means the 50 States, the District of Columbia, and outlying areas.**

**(b) Unless otherwise specified, this clause applies to all items in the Schedule.**

**(c) The Contractor shall deliver under this contract only domestic end products unless, in its offer, it specified delivery of qualifying country end products, Free Trade Agreement country end products other than Bahraini end products, Korean end products, Moroccan end products, Panamanian end products, or Peruvian end products, or other foreign end products in the Buy American—Free Trade Agreements—Balance of Payments Program Certificate—Alternate IV provision of the solicitation. If the Contractor certified in its offer that it will deliver a qualifying country end product or a Free Trade Agreement country end product other than a Bahraini end product, a Korean end product, a Moroccan end product, a Panamanian end product, or a Peruvian end product, the Contractor shall deliver a qualifying country end product, a Free Trade Agreement country end product other than a Bahraini end product, a Korean end product, a Moroccan end product, a Panamanian end product, or a Peruvian end product, or, at the Contractor's option, a domestic end product.**

**(d) The contract price does not include duty for end products or components for which the Contractor will claim duty-free entry.**

**(End of clause)**

***Alternate XI*. As prescribed in 225.1101(10)(i) and (10)(i)(L), use the following clause, which includes, in the definitions of “domestic end product” at paragraph (1)(ii)(A) and “qualifying country end product” at paragraph (2)(i), the domestic content threshold that will apply to the entire contract period of performance; adds “Korean end product,” “South Caucasus/Central and South Asian (SC/CASA) state,” and “South Caucasus/Central and South Asian (SC/CASA) state end product” to paragraph (a); and uses a different paragraph (c) than the basic clause:**

**BUY AMERICAN—FREE TRADE AGREEMENTS—BALANCE OF PAYMENTS**

**PROGRAM—ALTERNATE XI (FEB 2024)**

**(a) *Definitions.* As used in this clause—**

**“Bahraini end product” means an article that—**

**(1) Is wholly the growth, product, or manufacture of Bahrain; or**

**(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in Bahrain into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.**

**“Commercially available off-the-shelf (COTS) item”—**

**(1) Means any item of supply (including construction material) that is—**

**(i) A commercial product (as defined in paragraph (1) of the definition of “commercial product” in section 2.101 of the Federal Acquisition Regulation (FAR));**

**(ii) Sold in substantial quantities in the commercial marketplace; and**

**(iii) Offered to the Government, under a contract or subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace; and**

**(2) Does not include bulk cargo, as defined in 46 U.S.C. 40102(4), such as agricultural products and petroleum products.**

**“Component” means an article, material, or supply incorporated directly into an end product.**

**“Critical component” means a component that is mined, produced, or manufactured in the United States and deemed critical to the U.S. supply chain. The list of critical components is at FAR 25.105.**

**“Critical item” means domestic construction material or a domestic end product that is deemed critical to the U.S. supply chain. The list of critical items is at FAR 25.105.**

**“Domestic end product” means—**

**(1) For an end product that does not consist wholly or predominantly of iron or steel or a combination of both—**

**(i) An unmanufactured end product mined or produced in the United States; or**

**(ii) An end product manufactured in the United States if—**

**(A) The cost of its qualifying country components and its components that are mined, produced, or manufactured in the United States exceeds, for the entire period of performance for a contract awarded in: calendar year 2023, 60 percent of the cost of all its components; calendar years 2024 through 2028, 65 percent of the cost of all its components; or calendar year 2029 or later, 75 percent of the cost of all its components. The cost of components includes transportation costs to the place of incorporation into the end product and U.S. duty (whether or not a duty-free entry certificate is issued). Components of unknown origin are treated as foreign. Scrap generated, collected, and prepared for processing in the United States is considered domestic. A component is considered to have been mined, produced, or manufactured in the United States (regardless of its source in fact) if the end product in which it is incorporated is manufactured in the United States and the component is of a class or kind for which the Government has determined that⎯**

**(*1*) Sufficient and reasonably available commercial quantities of a satisfactory quality are not mined, produced, or manufactured in the United States; or**

**(*2*) It is inconsistent with the public interest to apply the restrictions of the Buy American statute; or**

**(B) The end product is a COTS item; or**

**(2) For an end product that consists wholly or predominantly of iron or steel or a combination of both, an end product manufactured in the United States, if the cost of iron and steel not produced in the United States or a qualifying country constitutes less than 5 percent of the cost of all the components used in the end product (produced in the United States or a qualifying country means that all manufacturing processes of the iron or steel must take place in the United States or a qualifying country, except metallurgical processes involving refinement of steel additives). The cost of iron and steel not produced in the United States or a qualifying country includes but is not limited to the cost of iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings, not produced in the United States or a qualifying country, utilized in the manufacture of the end product and a good faith estimate of the cost of all iron or steel components not produced in the United States or a qualifying country, excluding COTS fasteners. Iron or steel components of unknown origin are treated as foreign. If the end product contains multiple components, the cost of all the materials used in such end product is calculated in accordance with the explanation of cost of components in paragraph (1)(ii)(A) of this definition.**

**“End product” means those articles, materials, and supplies to be acquired under this contract for public use.**

**“Foreign end product” means an end product other than a domestic end product.**

**“Free Trade Agreement country” means Australia, Bahrain, Chile, Colombia, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Korea (Republic of), Mexico, Morocco, Nicaragua, Panama, Peru, or Singapore.**

**“Free Trade Agreement country end product” means an article that—**

**(1) Is wholly the growth, product, or manufacture of a Free Trade Agreement country; or**

**(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a Free Trade Agreement country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.**

**“Korean end product” means an article that—**

**(1) Is wholly the growth, product, or manufacture of Korea; or**

**(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in Korea (Republic of) into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product, includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.**

**“Moroccan end product” means an article that—**

**(1) Is wholly the growth, product, or manufacture of Morocco; or**

**(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in Morocco into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.**

**“Panamanian end product” means an article that—**

**(1) Is wholly the growth, product, or manufacture of Panama; or**

**(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in Panama into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.**

**“Peruvian end product” means an article that—**

**(1) Is wholly the growth, product, or manufacture of Peru; or**

**(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in Peru into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.**

**“Predominantly of iron or steel or a combination of both” means that the cost of the iron and steel content exceeds 50 percent of the total cost of all its components. The cost of iron and steel is the cost of the iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings utilized in the manufacture of the product and a good faith estimate of the cost of iron or steel components excluding COTS fasteners.**

**“Qualifying country” means a country with a reciprocal defense procurement memorandum of understanding or international agreement with the United States in which both countries agree to remove barriers to purchases of supplies produced in the other country or services performed by sources of the other country, and the memorandum or agreement complies, where applicable, with the requirements of section 36 of the Arms Export Control Act (22 U.S.C. 2776) and with 10 U.S.C. 2457. Accordingly, the following are qualifying countries:**

**Australia**

**Austria**

**Belgium**

**Canada**

**Czech Republic**

**Denmark**

**Egypt**

**Estonia**

**Finland**

**France**

**Germany**

**Greece**

**Israel**

**Italy**

**Japan**

**Latvia**

**Lithuania**

**Luxembourg**

**Netherlands**

**Norway**

**Poland**

**Portugal**

**Slovenia**

**Spain**

**Sweden**

**Switzerland**

**Turkey**

**United Kingdom of Great Britain and Northern Ireland.**

**“Qualifying country component” means a component mined, produced, or manufactured in a qualifying country.**

**“Qualifying country end product” means—**

**(1) An unmanufactured end product mined or produced in a qualifying country; or**

**(2) An end product manufactured in a qualifying country if—**

**(i) The cost of the following types of components exceeds, for the entire period of performance for a contract awarded in: calendar year 2023, 60 percent of the cost of all its components; calendar years 2024 through 2028, 65 percent of the cost of all its components; or calendar year 2029 or later, 75 percent of the cost of all its components:**

**(A) Components mined, produced, or manufactured in a qualifying country.**

**(B) Components mined, produced, or manufactured in the United States.**

**(C) Components of foreign origin of a class or kind for which the Government has determined that sufficient and reasonably available commercial quantities of a satisfactory quality are not mined, produced, or manufactured in the United States. Components of unknown origin are treated as foreign; or**

**(ii) The end product is a COTS item.**

**“South Caucasus/Central and South Asian (SC/CASA) state” means Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Pakistan, Tajikistan, Turkmenistan, or Uzbekistan.**

**“South Caucasus/Central and South Asian (SC/CASA) state end product” means an article that—**

**(1) Is wholly the growth, product, or manufacture of an SC/CASA state; or**

**(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in an SC/CASA state into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product, includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.**

**“Steel” means an alloy that includes at least 50 percent iron, between 0.02 and 2 percent carbon, and may include other elements.**

**“United States” means the 50 States, the District of Columbia, and outlying areas.**

**(b) Unless otherwise specified, this clause applies to all items in the Schedule.**

**(c) The Contractor shall deliver under this contract only domestic end products unless, in its offer, it specified delivery of qualifying country end products, SC/CASA state end products, Free Trade Agreement country end products other than Bahraini end products, Korean end products, Moroccan end products, Panamanian end products, or Peruvian end products, or other foreign end products in the Buy American—Free Trade Agreements—Balance of Payments Program Certificate—Alternate V provision of the solicitation. If the Contractor certified in its offer that it will deliver a qualifying country end product, SC/CASA state end products, or a Free Trade Agreement country end product other than a Bahraini end product, a Korean end product, a Moroccan end product, a Panamanian end product, or a Peruvian end product, the Contractor shall deliver a qualifying country end product, an SC/CASA state end product, a Free Trade Agreement country end product other than a Bahraini end product, a Korean end product, a Moroccan end product, a Panamanian end product, or a Peruvian end product or, at the Contractor's option, a domestic end product.**

**(d) The contract price does not include duty for end products or components for which the Contractor will claim duty-free entry.**

**(End of clause)]**

\* \* \* \* \*

**252.225-7044 Balance of Payments Program--Construction Material.**

*Basic*. As prescribed in 225.7503(a) and (a)(1), use the following clause:

BALANCE OF PAYMENTS PROGRAM—CONSTRUCTION MATERIAL—~~ALTERNATE I~~**[BASIC]** (~~JAN 2023~~**[FEB 2024]**)

(a) *Definitions.* As used in this clause—

“Commercially available off-the-shelf (COTS) item”—

(1) Means any item of supply (including construction material) that is—

(i) A commercial product (as defined in paragraph (1) of the definition of “commercial product” in section 2.101 of the Federal Acquisition Regulation **[(FAR)]**);

\* \* \* \* \*

**[** **“Critical component” means a component that is mined, produced, or manufactured in the United States and deemed critical to the U.S. supply chain. The list of critical components is at FAR 25.105.**

**“Critical item” means domestic construction material or a domestic end product that is deemed critical to the U.S. supply chain. The list of critical items is at FAR 25.105.]**

“Domestic construction material” means—

(1) For construction material that does not consist wholly or predominantly of iron or steel or a combination of both—

(i) An unmanufactured construction material mined or produced in the United States; or

(ii) A construction material manufactured in the United States, if—

(A) The cost of its components mined, produced, or manufactured in the United States exceeds ~~55~~**[60]** percent of the cost of all its components**[, except that the percentage will be 65 percent for items delivered in calendar years 2024 through 2028 and 75 percent for items delivered starting in calendar year 2029, unless an alternate percentage is established for a contract in accordance with FAR 25.201(c)]**. Components of foreign origin of the same class or kind for which nonavailability determinations have been made are treated as domestic. Components of unknown origin are treated as foreign; or

(B) The construction material is a COTS item; or

(2) For construction material that consists wholly or predominantly of iron or steel or a combination of both, a construction material manufactured in the United States if the cost of iron and steel not produced in the United States (excluding fasteners) as estimated in good faith by the contractor, constitutes less than 5 percent of the cost of all the components used in such construction material (produced in the United States means that all manufacturing processes of the iron or steel must take place in the United States, except metallurgical processes involving refinement of steel additives). The cost of iron and steel not produced in the United States includes but is not limited to the cost of iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings, not produced in the United States, utilized in the manufacture of the end product and a good faith estimate of the cost of all iron or steel components not produced in the United States, excluding COTS fasteners. Iron or steel components of unknown origin are treated as foreign. If the construction material contains multiple components, the cost of all the materials used in such construction material is calculated in accordance with the definition of “cost of components” in this clause.

\* \* \* \* \*

(End of clause)

*Alternate I*. As prescribed in 225.7503(a) and (a)(2), use the following clause, which adds definitions for “South Caucasus/Central and South Asian (SC/CASA) state” and “SC/CASA state construction material” to paragraph (a), and uses “domestic construction material or SC/CASA state construction material” instead of “domestic construction material” in the second sentence of paragraph (b):

BALANCE OF PAYMENTS PROGRAM—CONSTRUCTION MATERIAL—~~BASIC~~**[ALTERNATE I]** (~~JAN 2023~~**[FEB 2024]**)

(a) *Definitions.* As used in this clause—

“Commercially available off-the-shelf (COTS) item”—

(1) Means any item of supply (including construction material) that is—

(i) A commercial product (as defined in paragraph (1) of the definition of “commercial product” in section 2.101 of the Federal Acquisition Regulation **[(FAR)]**);

\* \* \* \* \*

**[** **“Critical component” means a component that is mined, produced, or manufactured in the United States and deemed critical to the U.S. supply chain. The list of critical components is at FAR 25.105.**

**“Critical item” means domestic construction material or a domestic end product that is deemed critical to the U.S. supply chain. The list of critical items is at FAR 25.105.]**

“Domestic construction material” means—

(1) For construction material that does not consist wholly or predominantly of iron or steel or a combination of both—

(i) An unmanufactured construction material mined or produced in the United States; or

(ii) A construction material manufactured in the United States, if—

(A) The cost of its components mined, produced, or manufactured in the United States exceeds ~~55~~**[60]** percent of the cost of all its components**[, except that the percentage will be 65 percent for items delivered in calendar years 2024 through 2028 and 75 percent for items delivered starting in calendar year 2029, unless an alternate percentage is established for a contract in accordance with FAR 25.201(c)]**. Components of foreign origin of the same class or kind for which nonavailability determinations have been made are treated as domestic. Components of unknown origin are treated as foreign; or

(B) The construction material is a COTSitem; or

(2) For construction material that consists wholly or predominantly of iron or steel or a combination of both, a construction material manufactured in the United States if the cost of iron and steel not produced in the United States (excluding fasteners) as estimated in good faith by the contractor, constitutes less than 5 percent of the cost of all the components used in such construction material (produced in the United States means that all manufacturing processes of the iron or steel must take place in the United States, except metallurgical processes involving refinement of steel additives). The cost of iron and steel not produced in the United States includes but is not limited to the cost of iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings, not produced in the United States, utilized in the manufacture of the construction material and a good faith estimate of the cost of all iron or steel components not produced in the United States, excluding COTS fasteners. Iron or steel components of unknown origin are treated as foreign. If the construction material contains multiple components, the cost of all the materials used in such construction material is calculated in accordance with the definition of “cost of components” in this clause.

\* \* \* \* \*

(End of clause)

**[*Alternate II*. As prescribed in 225.7503(a) and (a)(3), use the following clause, which includes, in the definition of “domestic construction material” at paragraph (1)(ii)(A), the domestic content threshold that will apply to the entire contract period of performance:**

**BALANCE OF PAYMENTS PROGRAM—CONSTRUCTION MATERIAL—ALTERNATE II (FEB 2024)**

**(a) *Definitions*. As used in this clause—**

**“Commercially available off-the-shelf (COTS) item”—**

**(1) Means any item of supply (including construction material) that is—**

**(i) A commercial product (as defined in paragraph (1) of the definition of “commercial product” in section 2.101 of the Federal Acquisition Regulation (FAR));**

**(ii) Sold in substantial quantities in the commercial marketplace; and**

**(iii) Offered to the Government, under a contract or subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace; and**

**(2) Does not include bulk cargo, as defined in 46 U.S.C. 40102(4), such as agricultural products and petroleum products.**

**“Component” means any article, material, or supply incorporated directly into construction material.**

**“Construction material” means an article, material, or supply brought to the construction site by the Contractor or a subcontractor for incorporation into the building or work. The term also includes an item brought to the site preassembled from articles, materials, or supplies. However, emergency life safety systems, such as emergency lighting, fire alarm, and audio evacuation systems, that are discrete systems incorporated into a public building or work and that are produced as complete systems, are evaluated as a single and distinct construction material regardless of when or how the individual parts or components of those systems are delivered to the construction site. Materials purchased directly by the Government are supplies, not construction material.**

**“Cost of components” means—**

**(1) For components purchased by the Contractor, the acquisition cost, including transportation costs to the place of incorporation into the end product (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or**

**(2) For components manufactured by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1) of this definition, plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the construction material.**

**“Critical component” means a component that is mined, produced, or manufactured in the United States and deemed critical to the U.S. supply chain. The list of critical components is at FAR 25.105.**

**“Critical item” means domestic construction material or a domestic end product that is deemed critical to the U.S. supply chain. The list of critical items is at FAR 25.105.**

**“Domestic construction material” means—**

**(1) For construction material that does not consist wholly or predominantly of iron or steel or a combination of both—**

**(i) An unmanufactured construction material mined or produced in the United States; or**

**(ii) A construction material manufactured in the United States, if—**

**(A) The cost of its components mined, produced, or manufactured in the United States exceeds****, for the entire period of performance for a contract awarded in: calendar year 2023, 60 percent of the cost of all its components; calendar years 2024 through 2028, 65 percent of the cost of all its components; or calendar year 2029 or later, 75 percent of the cost of all its components. Components of foreign origin of the same class or kind for which nonavailability determinations have been made are treated as domestic. Components of unknown origin are treated as foreign; or**

**(B) The construction material is a COTS item; or**

**(2) For construction material that consists wholly or predominantly of iron or steel or a combination of both, a construction material manufactured in the United States if the cost of iron and steel not produced in the United States (excluding fasteners) as estimated in good faith by the contractor, constitutes less than 5 percent of the cost of all the components used in such construction material (produced in the United States means that all manufacturing processes of the iron or steel must take place in the United States, except metallurgical processes involving refinement of steel additives). The cost of iron and steel not produced in the United States includes but is not limited to the cost of iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings, not produced in the United States, utilized in the manufacture of the end product and a good faith estimate of the cost of all iron or steel components not produced in the United States, excluding COTS fasteners. Iron or steel components of unknown origin are treated as foreign. If the construction material contains multiple components, the cost of all the materials used in such construction material is calculated in accordance with the definition of “cost of components” in this clause.**

**“Predominantly of iron or steel or a combination of both” means that the cost of the iron and steel content exceeds 50 percent of the total cost of all its components. The cost of iron and steel is the cost of the iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings utilized in the manufacture of the product and a good faith estimate of the cost of iron or steel components excluding COTS fasteners.**

**“Steel” means an alloy that includes at least 50 percent iron, between 0.02 and 2 percent carbon, and may include other elements.**

**“United States” means the 50 States, the District of Columbia, and outlying areas.**

**(b) *Domestic preference*. This clause implements the Balance of Payments Program by providing a preference for domestic construction material. The Contractor shall use only domestic construction material in performing this contract, except for—**

**(1) Construction material valued at or below the simplified acquisition threshold in FAR part 2;**

**(2) Information technology that is a commercial product; or**

**(3) The construction material or components listed by the Government as follows:**

***[Contracting Officer to list applicable excepted materials or indicate “none”].***

**(End of clause)**

***Alternate III*. As prescribed in 225.7503(a) and (a)(4), use the following clause,** **which includes, in the definition of “domestic construction material” at paragraph (1)(ii)(A), the domestic content threshold that will apply to the entire period of performance; adds definitions for “South Caucasus/Central and South Asian (SC/CASA) state” and “SC/CASA state construction material” to paragraph (a); and uses “domestic construction material or SC/CASA state construction material” instead of “domestic construction material” in the second sentence of paragraph (b):**

**BALANCE OF PAYMENTS PROGRAM—CONSTRUCTION MATERIAL—ALTERNATE III (FEB 2024)**

**(a) *Definitions*. As used in this clause—**

**“Commercially available off-the-shelf (COTS) item”—**

**(1) Means any item of supply (including construction material) that is—**

**(i) A commercial product (as defined in paragraph (1) of the definition of “commercial product” in section 2.101 of the Federal Acquisition Regulation (FAR));**

**(ii) Sold in substantial quantities in the commercial marketplace; and**

**(iii) Offered to the Government, under a contract or subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace; and**

**(2) Does not include bulk cargo, as defined in 46 U.S.C. 40102(4), such as agricultural products and petroleum products.**

**“Component” means any article, material, or supply incorporated directly into construction material.**

**“Construction material” means an article, material, or supply brought to the construction site by the Contractor or a subcontractor for incorporation into the building or work. The term also includes an item brought to the site preassembled from articles, materials, or supplies. However, emergency life safety systems, such as emergency lighting, fire alarm, and audio evacuation systems, that are discrete systems incorporated into a public building or work and that are produced as complete systems, are evaluated as a single and distinct construction material regardless of when or how the individual parts or components of those systems are delivered to the construction site. Materials purchased directly by the Government are supplies, not construction material.**

**“Cost of components” means—**

**(1) For components purchased by the Contractor, the acquisition cost, including transportation costs to the place of incorporation into the end product (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or**

**(2) For components manufactured by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1) of this definition, plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the construction material.**

**“Critical component” means a component that is mined, produced, or manufactured in the United States and deemed critical to the U.S. supply chain. The list of critical components is at FAR 25.105.**

**“Critical item” means domestic construction material or a domestic end product that is deemed critical to the U.S. supply chain. The list of critical items is at FAR 25.105.**

**“Domestic construction material” means—**

**(1) For construction material that does not consist wholly or predominantly of iron or steel or a combination of both—**

**(i) An unmanufactured construction material mined or produced in the United States; or**

**(ii) A construction material manufactured in the United States, if—**

**(A) The cost of its components mined, produced, or manufactured in the United States exceeds, for the entire period of performance for a contract awarded in: calendar year 2023, 60 percent of the cost of all its components; calendar years 2024 through 2028, 65 percent of the cost of all its components; or calendar year 2029 or later, 75 percent of the cost of all its components. Components of foreign origin of the same class or kind for which nonavailability determinations have been made are treated as domestic. Components of unknown origin are treated as foreign; or**

**(B) The construction material is a COTS item; or**

**(2) For construction material that consists wholly or predominantly of iron or steel or a combination of both, a construction material manufactured in the United States if the cost of iron and steel not produced in the United States (excluding fasteners) as estimated in good faith by the contractor, constitutes less than 5 percent of the cost of all the components used in such construction material (produced in the United States means that all manufacturing processes of the iron or steel must take place in the United States, except metallurgical processes involving refinement of steel additives). The cost of iron and steel not produced in the United States includes but is not limited to the cost of iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings, not produced in the United States, utilized in the manufacture of the construction material and a good faith estimate of the cost of all iron or steel components not produced in the United States, excluding COTS fasteners. Iron or steel components of unknown origin are treated as foreign. If the construction material contains multiple components, the cost of all the materials used in such construction material is calculated in accordance with the definition of “cost of components” in this clause.**

**“Predominantly of iron or steel or a combination of both” means that the cost of the iron and steel content exceeds 50 percent of the total cost of all its components. The cost of iron and steel is the cost of the iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings utilized in the manufacture of the product and a good faith estimate of the cost of iron or steel components excluding COTS fasteners.**

**“South Caucasus/Central and South Asian (SC/CASA) state” means Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Pakistan, Tajikistan, Turkmenistan, or Uzbekistan.**

**“SC/CASA state construction material” means construction material that—**

**(1) Is wholly the growth, product, or manufacture of an SC/CASA state; or**

**(2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in an SC/CASA state into a new and different construction material distinct from the material from which it was transformed.**

**“Steel” means an alloy that includes at least 50 percent iron, between 0.02 and 2 percent carbon, and may include other elements.**

**“United States” means the 50 States, the District of Columbia, and outlying areas.**

**(b) *Domestic preference*. This clause implements the Balance of Payments Program by providing a preference for domestic construction material. The Contractor shall use only domestic construction material or SC/CASA state construction material in performing this contract, except for—**

**(1) Construction material valued at or below the simplified acquisition threshold in FAR part 2;**

**(2) Information technology that is a commercial product; or**

**(3) The construction material or components listed by the Government as follows:**

***[Contracting Officer to list applicable excepted materials or indicate “none”]*.**

**(End of clause)]**

**252.225-7045 Balance of Payments Program--Construction Material Under Trade Agreements.**

*Basic*. As prescribed in 225.7503(b) and (b)(1), use the following clause:

BALANCE OF PAYMENTS PROGRAM—CONSTRUCTION MATERIAL UNDER

TRADE AGREEMENTS—BASIC ~~(OCT 2023~~**[FEB 2024]**)

(a*) Definitions*. As used in this clause—

\* \* \* \* \*

“Commercially available off-the-shelf (COTS) item”—

(1) Means any item of supply (including construction material) that is—

(i) A commercial product (as defined in paragraph (1) of the definition of “commercial product” in section 2.101 of the Federal Acquisition Regulation **[(FAR)]**);

\* \* \* \* \*

**[** **“Critical component” means a component that is mined, produced, or manufactured in the United States and deemed critical to the U.S. supply chain. The list of critical components is at FAR 25.105.**

**“Critical item” means domestic construction material or a domestic end product that is deemed critical to the U.S. supply chain. The list of critical items is at FAR 25.105.]**

\* \* \* \* \*

“Domestic construction material” means—

(1) For construction material that does not consist wholly or predominantly of iron or steel or a combination of both—

(i) An unmanufactured construction material mined or produced in the United States; or

(ii) A construction material manufactured in the United States, if—

(A) The cost of its components mined, produced, or manufactured in the United States exceeds ~~55~~**[60]** percent of the cost of all its components**[, except that the percentage will be 65 percent for items delivered in calendar years 2024 through 2028 and 75 percent for items delivered starting in calendar year 2029, unless an alternate percentage is established for a contract in accordance with FAR 25.201(c)]**. Components of foreign origin of the same class or kind for which nonavailability determinations have been made are treated as domestic. Components of unknown origin are treated as foreign; or

(B) The construction material is a COTS item; or

(2) For construction material that consists wholly or predominantly of iron or steel or a combination of both, a construction material manufactured in the United States if the cost of iron and steel not produced in the United States (excluding fasteners) as estimated in good faith by the contractor, constitutes less than 5 percent of the cost of all the components used in such construction material (produced in the United States means that all manufacturing processes of the iron or steel must take place in the United States, except metallurgical processes involving refinement of steel additives). The cost of iron and steel not produced in the United States includes but is not limited to the cost of iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings, not produced in the United States, utilized in the manufacture of the construction material and a good faith estimate of the cost of all iron or steel components not produced in the United States, excluding COTS fasteners. Iron or steel components of unknown origin are treated as foreign. If the construction material contains multiple components, the cost of all the materials used in such construction material is calculated in accordance with the definition of “cost of components” in this clause.

\* \* \* \* \*

(End of clause)

*Alternate I*. As prescribed in 225.7503(b)and (b)(2), use the following clause, which adds “Bahraini or Mexican construction material” to paragraph (a), and uses a different paragraph (b) and (c) than the basic clause:

BALANCE OF PAYMENTS PROGRAM—CONSTRUCTION MATERIAL UNDER

TRADE AGREEMENTS—ALTERNATE I ~~(NOV 2023~~**[FEB 2024]**)

(a) *Definitions*. As used in this clause—

\* \* \* \* \*

“Commercially available off-the-shelf (COTS) item”—

(1) Means any item of supply (including construction material) that is—

(i) A commercial product (as defined in paragraph (1) of the definition of “commercial product” in section 2.101 of the Federal Acquisition Regulation **[(FAR)]**);

\* \* \* \* \*

**[** **“Critical component” means a component that is mined, produced, or manufactured in the United States and deemed critical to the U.S. supply chain. The list of critical components is at FAR 25.105.**

**“Critical item” means domestic construction material or a domestic end product that is deemed critical to the U.S. supply chain. The list of critical items is at FAR 25.105.]**

\* \* \* \* \*

“Domestic construction material” means—

(1) For construction material that does not consist wholly or predominantly of iron or steel or a combination of both—

(i) An unmanufactured construction material mined or produced in the United States; or

(ii) A construction material manufactured in the United States, if—

(A) The cost of its components mined, produced, or manufactured in the United States exceeds ~~55~~**[60]** percent of the cost of all its components**[, except that the percentage will be 65 percent for items delivered in calendar years 2024 through 2028 and 75 percent for items delivered starting in calendar year 2029, unless an alternate percentage is established for a contract in accordance with FAR 25.201(c)]**. Components of foreign origin of the same class or kind for which nonavailability determinations have been made are treated as domestic. Components of unknown origin are treated as foreign; or

(B) The construction material is a COTS item; or

(2) For construction material that consists wholly or predominantly of iron or steel or a combination of both, a construction material manufactured in the United States if the cost of iron and steel not produced in the United States (excluding fasteners) as estimated in good faith by the contractor, constitutes less than 5 percent of the cost of all the components used in such construction material (produced in the United States means that all manufacturing processes of the iron or steel must take place in the United States, except metallurgical processes involving refinement of steel additives). The cost of iron and steel not produced in the United States includes but is not limited to the cost of iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings, not produced in the United States, utilized in the manufacture of the construction material and a good faith estimate of the cost of all iron or steel components not produced in the United States, excluding COTS fasteners. Iron or steel components of unknown origin are treated as foreign. If the construction material contains multiple components, the cost of all the materials used in such construction material is calculated in accordance with the definition of “cost of components” in this clause.

\* \* \* \* \*

(End of clause)

*Alternate II*. As prescribed in [225.7503](https://www.acq.osd.mil/dpap/dars/dfars/html/current/225_75.htm#225.7503)(b)and (b)(3), use the following clause, which adds “South Caucasus/Central and South Asian (SC/CASA) state” and “SC/CASA state construction material” to paragraph (a), uses a different paragraph (b) and introductory text for paragraph (c) than the basic clause, and adds paragraph (d):

BALANCE OF PAYMENTS PROGRAM—CONSTRUCTION MATERIAL UNDER

TRADE AGREEMENTS—ALTERNATE II (~~OCT 2023~~**[FEB 2024]**)

(a) *Definitions*. As used in this clause—

\* \* \* \* \*

“Commercially available off-the-shelf (COTS) item”—

(1) Means any item of supply (including construction material) that is—

(i) A commercial product (as defined in paragraph (1) of the definition of “commercial product” in section 2.101 of the Federal Acquisition Regulation **[(FAR)]**);

\* \* \* \* \*

**[** **“Critical component” means a component that is mined, produced, or manufactured in the United States and deemed critical to the U.S. supply chain. The list of critical components is at FAR 25.105.**

**“Critical item” means domestic construction material or a domestic end product that is deemed critical to the U.S. supply chain. The list of critical items is at FAR 25.105.]**

\* \* \* \* \*

“Domestic construction material” means—

(1) For construction material that does not consist wholly or predominantly of iron or steel or a combination of both—

(i) An unmanufactured construction material mined or produced in the United States; or

(ii) A construction material manufactured in the United States, if—

(A) The cost of its components mined, produced, or manufactured in the United States exceeds ~~55~~**[60]** percent of the cost of all its components**[, except that the percentage will be 65 percent for items delivered in calendar years 2024 through 2028 and 75 percent for items delivered starting in calendar year 2029, unless an alternate percentage is established for a contract in accordance with FAR 25.201(c)]**. Components of foreign origin of the same class or kind for which nonavailability determinations have been made are treated as domestic. Components of unknown origin are treated as foreign; or

(B) The construction material is a COTSitem; or

(2) For construction material that consists wholly or predominantly of iron or steel or a combination of both, a construction material manufactured in the United States if the cost of iron and steel not produced in the United States (excluding fasteners) as estimated in good faith by the contractor, constitutes less than 5 percent of the cost of all the components used in such construction material (produced in the United States means that all manufacturing processes of the iron or steel must take place in the United States, except metallurgical processes involving refinement of steel additives). The cost of iron and steel not produced in the United States includes but is not limited to the cost of iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings, not produced in the United States, utilized in the manufacture of the construction material and a good faith estimate of the cost of all iron or steel components not produced in the United States, excluding COTS fasteners. Iron or steel components of unknown origin are treated as foreign. If the construction material contains multiple components, the cost of all the materials used in such construction material is calculated in accordance with the definition of “cost of components” in this clause.

\* \* \* \* \*

(End of clause)

*Alternate III*. As prescribed in [225.7503](https://www.acq.osd.mil/dpap/dars/dfars/html/current/225_75.htm#225.7503)(b) and (b)(4), use the following clause, which adds “South Caucasus/Central and South Asian (SC/CASA state)” and “SC/CASA state construction material” to paragraph (a), uses a different paragraph (b) and introductory text for paragraph (c) than the basic clause, and adds paragraph (d):

BALANCE OF PAYMENTS PROGRAM—CONSTRUCTION MATERIAL UNDER

TRADE AGREEMENTS—ALTERNATE III ~~(NOV 2023~~**[FEB 2024]**)

(a) *Definitions*. As used in this clause—

\* \* \* \* \*

“Commercially available off-the-shelf (COTS) item”—

(1) Means any item of supply (including construction material) that is—

(i) A commercial product (as defined in paragraph (1) of the definition of “commercial product” in section 2.101 of the Federal Acquisition Regulation **[(FAR)]**);

\* \* \* \* \*

**[** **“Critical component” means a component that is mined, produced, or manufactured in the United States and deemed critical to the U.S. supply chain. The list of critical components is at FAR 25.105.**

**“Critical item” means domestic construction material or a domestic end product that is deemed critical to the U.S. supply chain. The list of critical items is at FAR 25.105.]**

\* \* \* \* \*

“Domestic construction material” means—

(1) For construction material that does not consist wholly or predominantly of iron or steel or a combination of both—

(i) An unmanufactured construction material mined or produced in the United States; or

(ii) A construction material manufactured in the United States, if—

(A) The cost of its components mined, produced, or manufactured in the United States exceeds ~~55~~**[60]** percent of the cost of all its components**[, except that the percentage will be 65 percent for items delivered in calendar years 2024 through 2028 and 75 percent for items delivered starting in calendar year 2029, unless an alternate percentage is established for a contract in accordance with FAR 25.201(c)]**. Components of foreign origin of the same class or kind for which nonavailability determinations have been made are treated as domestic. Components of unknown origin are treated as foreign; or

(B) The construction material is a COTS item; or

(2) For construction material that consists wholly or predominantly of iron or steel or a combination of both, a construction material manufactured in the United States if the cost of iron and steel not produced in the United States (excluding fasteners) as estimated in good faith by the contractor, constitutes less than 5 percent of the cost of all the components used in such construction material (produced in the United States means that all manufacturing processes of the iron or steel must take place in the United States, except metallurgical processes involving refinement of steel additives). The cost of iron and steel not produced in the United States includes but is not limited to the cost of iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings, not produced in the United States, utilized in the manufacture of the construction material and a good faith estimate of the cost of iron or steel components not produced in the United States, excluding COTS fasteners. Iron or steel components of unknown origin are treated as foreign. If the construction material contains multiple components, the cost of all the materials used in such construction material is calculated in accordance with the definition of “cost of components” in this clause.

\* \* \* \* \*

(End of clause)

**[*Alternate IV*. As prescribed in 225.7503(b) and (b)(5), use the following clause, which** **includes, in the definition of “domestic construction material” at paragraph (1)(ii)(A), the domestic content threshold that will apply to the entire contract period of performance:**

**BALANCE OF PAYMENTS PROGRAM—CONSTRUCTION MATERIAL UNDER TRADE AGREEMENTS—ALTERNATE IV (FEB 2024)**

**(a) *Definitions*. As used in this clause—**

**“Caribbean Basin country construction material” means a construction material that—**

**(1) Is wholly the growth, product, or manufacture of a Caribbean Basin country; or**

**(2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a Caribbean Basin country into a new and different construction material distinct from the materials from which it was transformed.**

**“Commercially available off-the-shelf (COTS) item”—**

**(1) Means any item of supply (including construction material) that is—**

**(i) A commercial product (as defined in paragraph (1) of the definition of “commercial product” in section 2.101 of the Federal Acquisition Regulation (FAR));**

**(ii) Sold in substantial quantities in the commercial marketplace; and**

**(iii) Offered to the Government, under a contract or subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace; and**

**(2) Does not include bulk cargo, as defined in section 3 of the Shipping Act of 1984 (46 U.S.C. 40102), such as agricultural products and petroleum products.**

**“Component” means any article, material, or supply incorporated directly into construction material.**

**“Construction material” means an article, material, or supply brought to the construction site by the Contractor or a subcontractor for incorporation into the building or work. The term also includes an item brought to the site preassembled from articles, materials, or supplies. However, emergency life safety systems, such as emergency lighting, fire alarm, and audio evacuation systems, that are discrete systems incorporated into a public building or work and that are produced as complete systems, are evaluated as a single and distinct construction material regardless of when or how the individual parts or components of those systems are delivered to the construction site. Materials purchased directly by the Government are supplies, not construction material.**

**“Cost of components” means—**

**(1) For components purchased by the Contractor, the acquisition cost, including transportation costs to the place of incorporation into the end product (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or**

**(2) For components manufactured by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1) of this definition, plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the construction material.**

**“Critical component” means a component that is mined, produced, or manufactured in the United States and deemed critical to the U.S. supply chain. The list of critical components is at FAR 25.105.**

**“Critical item” means domestic construction material or a domestic end product that is deemed critical to the U.S. supply chain. The list of critical items is at FAR 25.105.**

**“Designated country” means—**

**(1) A World Trade Organization Government Procurement Agreement (WTO GPA) country (Armenia, Aruba, Australia, Austria, Belgium, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea (Republic of), Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Moldova, Montenegro, Netherlands, New Zealand, North Macedonia, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Taiwan (known in the World Trade Organization as “the Separate Customs Territory of Taiwan, Penghu, Kinmen, and Matsu” (Chinese Taipei)), Ukraine, or the United Kingdom);**

**(2) A Free Trade Agreement country (Australia, Bahrain, Chile, Colombia, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Korea (Republic of), Mexico, Morocco, Nicaragua, Panama, Peru, or Singapore);**

**(3) A least developed country (Afghanistan, Angola, Bangladesh, Benin, Bhutan, Burkina Faso, Burundi, Cambodia, Central African Republic, Chad, Comoros, Democratic Republic of Congo, Djibouti, Equatorial Guinea, Eritrea, Ethiopia, Gambia, Guinea, Guinea-Bissau, Haiti, Kiribati, Laos, Lesotho, Liberia, Madagascar, Malawi, Mali, Mauritania, Mozambique, Nepal, Niger, Rwanda, Samoa, Sao Tome and Principe, Senegal, Sierra Leone, Solomon Islands, Somalia, South Sudan, Tanzania, Timor-Leste, Togo, Tuvalu, Uganda, Vanuatu, Yemen, or Zambia); or**

**(4) A Caribbean Basin country (Antigua and Barbuda, Aruba, Bahamas, Barbados, Belize, Bonaire, British Virgin Islands, Curacao, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, Saba, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Sint Eustatius, Sint Maarten, or Trinidad and Tobago).**

**“Designated country construction material” means a construction material that is a WTO GPA country construction material, a Free Trade Agreement country construction material, a least developed country construction material, or a Caribbean Basin country construction material.**

**“Domestic construction material” means—**

**(1) For construction material that does not consist wholly or predominantly of iron or steel or a combination of both—**

**(i) An unmanufactured construction material mined or produced in the United States; or**

**(ii) A construction material manufactured in the United States, if—**

**(A) The cost of its components mined, produced, or manufactured in the United States exceeds, for the entire period of performance for a contract awarded in: calendar year 2023, 60 percent of the cost of all its components; calendar years 2024 through 2028, 65 percent of the cost of all its components; or calendar year 2029 or later, 75 percent of the cost of all its components. Components of foreign origin of the same class or kind for which nonavailability determinations have been made are treated as domestic. Components of unknown origin are treated as foreign; or**

**(B) The construction material is a COTS item; or**

**(2) For construction material that consists wholly or predominantly of iron or steel or a combination of both, a construction material manufactured in the United States if the cost of iron and steel not produced in the United States (excluding fasteners) as estimated in good faith by the contractor, constitutes less than 5 percent of the cost of all the components used in such construction material (produced in the United States means that all manufacturing processes of the iron or steel must take place in the United States, except metallurgical processes involving refinement of steel additives). The cost of iron and steel not produced in the United States includes but is not limited to the cost of iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings, not produced in the United States, utilized in the manufacture of the construction material and a good faith estimate of the cost of all iron or steel components not produced in the United States, excluding COTS fasteners. Iron or steel components of unknown origin are treated as foreign. If the construction material contains multiple components, the cost of all the materials used in such construction material is calculated in accordance with the definition of “cost of components” in this clause.**

**“Free Trade Agreement country construction material” means a construction material that—**

**(1) Is wholly the growth, product, or manufacture of a Free Trade Agreement country; or**

**(2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a Free Trade Agreement country into a new and different construction material distinct from the material from which it was transformed.**

**“Least developed country construction material” means a construction material that—**

**(1) Is wholly the growth, product, or manufacture of a least developed country; or**

**(2) In the case of a construction material that consists in whole or in part of materials from another country has been substantially transformed in a least developed country into a new and different construction material distinct from the materials from which it was transformed.**

**“Predominantly of iron or steel or a combination of both” means that the cost of the iron and steel content exceeds 50 percent of the total cost of all its components. The cost of iron and steel is the cost of the iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings utilized in the manufacture of the product and a good faith estimate of the cost of iron or steel components excluding COTS fasteners.**

**“Steel” means an alloy that includes at least 50 percent iron, between 0.02 and 2 percent carbon, and may include other elements.**

**“United States” means the 50 States, the District of Columbia, and outlying areas.**

**“WTO GPA country construction material” means a construction material that—**

**(1) Is wholly the growth, product, or manufacture of a WTO GPA country; or**

**(2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a WTO GPA country into a new and different construction material distinct from the materials from which it was transformed.**

**(b) This clause implements the Balance of Payments Program by providing a preference for domestic construction material. In addition, the Contracting Officer has determined that the WTO GPA and Free Trade Agreements apply to this acquisition. Therefore, the Balance of Payments Program restrictions are waived for designated country construction materials.**

**(c) The Contractor shall use only domestic or designated country construction material in performing this contract, except for—**

**(1) Construction material valued at or below the simplified acquisition threshold in FAR part 2;**

**(2) Information technology that is a commercial product; or**

**(3) The construction material or components listed by the Government as follows:**

***[Contracting Officer to list applicable excepted materials or indicate “none”].***

**(End of clause)**

***Alternate V*. As prescribed in 225.7503(b) and (b)(6), use the following clause, which includes, in the definition of “domestic construction material” at paragraph (1)(ii)(A), the domestic content threshold that will apply to the entire contract period of performance; adds “Bahraini or Mexican construction material” to paragraph (a); and uses different paragraphs (b) and (c) than the basic clause:**

**BALANCE OF PAYMENTS PROGRAM—CONSTRUCTION MATERIAL UNDER TRADE AGREEMENTS—ALTERNATE V (FEB 2024)**

**(a) *Definitions*. As used in this clause—**

**“Bahraini or Mexican construction material” means a construction material that—**

**(1) Is wholly the growth, product, or manufacture of Bahrain or Mexico; or**

**(2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in Bahrain or Mexico into a new and different construction material distinct from the materials from which it was transformed.**

**“Caribbean Basin country construction material” means a construction material that—**

**(1) Is wholly the growth, product, or manufacture of a Caribbean Basin country; or**

**(2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a Caribbean Basin country into a new and different construction material distinct from the materials from which it was transformed.**

**“Commercially available off-the-shelf (COTS) item”—**

**(1) Means any item of supply (including construction material) that is—**

**(i) A commercial product (as defined in paragraph (1) of the definition of “commercial product” in section 2.101 of the Federal Acquisition Regulation (FAR));**

**(ii) Sold in substantial quantities in the commercial marketplace; and**

**(iii) Offered to the Government, under a contract or subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace; and**

**(2) Does not include bulk cargo, as defined in section 3 of the Shipping Act of 1984 (46 U.S.C. 40102), such as agricultural products and petroleum products.**

**“Component” means any article, material, or supply incorporated directly into construction material.**

**“Construction material” means an article, material, or supply brought to the construction site by the Contractor or a subcontractor for incorporation into the building or work. The term also includes an item brought to the site preassembled from articles, materials, or supplies. However, emergency life safety systems, such as emergency lighting, fire alarm, and audio evacuation systems, that are discrete systems incorporated into a public building or work and that are produced as complete systems, are evaluated as a single and distinct construction material regardless of when or how the individual parts or components of those systems are delivered to the construction site. Materials purchased directly by the Government are supplies, not construction material.**

**“Cost of components” means—**

**(1) For components purchased by the Contractor, the acquisition cost, including transportation costs to the place of incorporation into the end product (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or**

**(2) For components manufactured by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1) of this definition, plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the construction material.**

**“Critical component” means a component that is mined, produced, or manufactured in the United States and deemed critical to the U.S. supply chain. The list of critical components is at FAR 25.105.**

**“Critical item” means domestic construction material or a domestic end product that is deemed critical to the U.S. supply chain. The list of critical items is at FAR 25.105.**

**“Designated country” means—**

**(1) A World Trade Organization Government Procurement Agreement (WTO GPA) country (Armenia, Aruba, Australia, Austria, Belgium, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea (Republic of), Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Moldova, Montenegro, Netherlands, New Zealand, North Macedonia, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Taiwan (known in the World Trade Organization as “the Separate Customs Territory of Taiwan, Penghu, Kinmen, and Matsu” (Chinese Taipei)), Ukraine, or the United Kingdom);**

**(2) A Free Trade Agreement country (Australia, Bahrain, Chile, Colombia, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Korea (Republic of), Mexico, Morocco, Nicaragua, Panama, Peru, or Singapore);**

**(3) A least developed country (Afghanistan, Angola, Bangladesh, Benin, Bhutan, Burkina Faso, Burundi, Cambodia, Central African Republic, Chad, Comoros, Democratic Republic of Congo, Djibouti, Equatorial Guinea, Eritrea, Ethiopia, Gambia, Guinea, Guinea-Bissau, Haiti, Kiribati, Laos, Lesotho, Liberia, Madagascar, Malawi, Mali, Mauritania, Mozambique, Nepal, Niger, Rwanda, Samoa, Sao Tome and Principe, Senegal, Sierra Leone, Solomon Islands, Somalia, South Sudan, Tanzania, Timor-Leste, Togo, Tuvalu, Uganda, Vanuatu, Yemen, or Zambia); or**

**(4) A Caribbean Basin country (Antigua and Barbuda, Aruba, Bahamas, Barbados, Belize, Bonaire, British Virgin Islands, Curacao, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, Saba, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Sint Eustatius, Sint Maarten, or Trinidad and Tobago).**

**“Designated country construction material” means a construction material that is a WTO GPA country construction material, a Free Trade Agreement country construction material, a least developed country construction material, or a Caribbean Basin country construction material.**

**“Domestic construction material” means—**

**(1) For construction material that does not consist wholly or predominantly of iron or steel or a combination of both—**

**(i) An unmanufactured construction material mined or produced in the United States; or**

**(ii) A construction material manufactured in the United States, if—**

**(A) The cost of its components mined, produced, or manufactured in the United States exceeds, for the entire period of performance for a contract awarded in: calendar year 2023, 60 percent of the cost of all its components; calendar years 2024 through 2028, 65 percent of the cost of all its components; or calendar year 2029 or later, 75 percent of the cost of all its components. Components of foreign origin of the same class or kind for which nonavailability determinations have been made are treated as domestic. Components of unknown origin are treated as foreign; or**

**(B) The construction material is a COTS item; or**

**(2) For construction material that consists wholly or predominantly of iron or steel or a combination of both, a construction material manufactured in the United States if the cost of iron and steel not produced in the United States (excluding fasteners) as estimated in good faith by the contractor, constitutes less than 5 percent of the cost of all the components used in such construction material (produced in the United States means that all manufacturing processes of the iron or steel must take place in the United States, except metallurgical processes involving refinement of steel additives). The cost of iron and steel not produced in the United States includes but is not limited to the cost of iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings, not produced in the United States, utilized in the manufacture of the construction material and a good faith estimate of the cost of all iron or steel components not produced in the United States, excluding COTS fasteners. Iron or steel components of unknown origin are treated as foreign. If the construction material contains multiple components, the cost of all the materials used in such construction material is calculated in accordance with the definition of “cost of components” in this clause.**

**“Free Trade Agreement country construction material” means a construction material that—**

**(1) Is wholly the growth, product, or manufacture of a Free Trade Agreement country; or**

**(2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a Free Trade Agreement country into a new and different construction material distinct from the material from which it was transformed.**

**“Least developed country construction material” means a construction material that—**

**(1) Is wholly the growth, product, or manufacture of a least developed country; or**

**(2) In the case of a construction material that consists in whole or in part of materials from another country has been substantially transformed in a least developed country into a new and different construction material distinct from the materials from which it was transformed.**

**“Predominantly of iron or steel or a combination of both” means that the cost of the iron and steel content exceeds 50 percent of the total cost of all its components. The cost of iron and steel is the cost of the iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings utilized in the manufacture of the product and a good faith estimate of the cost of iron or steel components excluding COTS fasteners.**

**“Steel” means an alloy that includes at least 50 percent iron, between 0.02 and 2 percent carbon, and may include other elements.**

**“United States” means the 50 States, the District of Columbia, and outlying areas.**

**“WTO GPA country construction material” means a construction material that—**

**(1) Is wholly the growth, product, or manufacture of a WTO GPA country; or**

**(2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a WTO GPA country into a new and different construction material distinct from the materials from which it was transformed.**

**(b) This clause implements the Balance of Payments Program by providing a preference for domestic construction material. In addition, the Contracting Officer has determined that the WTO GPA and all Free Trade Agreements except United States-Mexico-Canada Agreement and the Bahrain Free Trade Agreement apply to this acquisition. Therefore, the Balance of Payments Program restrictions are waived for designated country construction material other than Bahraini or Mexican construction material.**

**(c) The Contractor shall use only domestic or designated country construction material other than Bahraini or Mexican construction material in performing this contract, except for—**

**(1) Construction material valued at or below the simplified acquisition threshold in FAR part 2; or**

**(2) Information technology that is a commercial product; or**

**(3) The construction material or components listed by the Government as follows:**

***[Contracting Officer to list applicable excepted materials or indicate “none”]*.**

**(End of clause)**

***Alternate VI*. As prescribed in 225.7503(b) and (b)(7), use the following clause, which includes, in the definition of “domestic construction material” at paragraph (1)(ii)(A), the domestic content threshold that will apply to the entire contract period of performance; adds “South Caucasus/Central and South Asian (SC/CASA) state” and “SC/CASA state construction material” to paragraph (a); uses a different paragraph (b) and introductory text for paragraph (c) than the basic clause; and adds paragraph (d):**

**BALANCE OF PAYMENTS PROGRAM—CONSTRUCTION MATERIAL UNDER TRADE AGREEMENTS—ALTERNATE VI (FEB 2024)**

**(a) *Definitions*. As used in this clause—**

**“Caribbean Basin country construction material” means a construction material that—**

**(1) Is wholly the growth, product, or manufacture of a Caribbean Basin country; or**

**(2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a Caribbean Basin country into a new and different construction material distinct from the materials from which it was transformed.**

**“Commercially available off-the-shelf (COTS) item”—**

**(1) Means any item of supply (including construction material) that is—**

**(i) A commercial product (as defined in paragraph (1) of the definition of “commercial product” in section 2.101 of the Federal Acquisition Regulation (FAR));**

**(ii) Sold in substantial quantities in the commercial marketplace; and**

**(iii) Offered to the Government, under a contract or subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace; and**

**(2) Does not include bulk cargo, as defined in section 3 of the Shipping Act of 1984 (46 U.S.C. 40102), such as agricultural products and petroleum products.**

**“Component” means any article, material, or supply incorporated directly into construction material.**

**“Construction material” means an article, material, or supply brought to the construction site by the Contractor or a subcontractor for incorporation into the building or work. The term also includes an item brought to the site preassembled from articles, materials, or supplies. However, emergency life safety systems, such as emergency lighting, fire alarm, and audio evacuation systems, that are discrete systems incorporated into a public building or work and that are produced as complete systems, are evaluated as a single and distinct construction material regardless of when or how the individual parts or components of those systems are delivered to the construction site. Materials purchased directly by the Government are supplies, not construction material.**

**“Cost of components” means—**

**(1) For components purchased by the Contractor, the acquisition cost, including transportation costs to the place of incorporation into the end product (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or**

**(2) For components manufactured by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1) of this definition, plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the construction material.**

**“Critical component” means a component that is mined, produced, or manufactured in the United States and deemed critical to the U.S. supply chain. The list of critical components is at FAR 25.105.**

**“Critical item” means domestic construction material or a domestic end product that is deemed critical to the U.S. supply chain. The list of critical items is at FAR 25.105.**

**“Designated country” means—**

**(1) A World Trade Organization Government Procurement Agreement (WTO GPA) country (Armenia, Aruba, Australia, Austria, Belgium, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea (Republic of), Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Moldova, Montenegro, Netherlands, New Zealand, North Macedonia, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Taiwan (known in the World Trade Organization as “the Separate Customs Territory of Taiwan, Penghu, Kinmen, and Matsu” (Chinese Taipei)), Ukraine, or the United Kingdom);**

**(2) A Free Trade Agreement country (Australia, Bahrain, Chile, Colombia, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Korea (Republic of), Mexico, Morocco, Nicaragua, Panama, Peru, or Singapore);**

**(3) A least developed country (Afghanistan, Angola, Bangladesh, Benin, Bhutan, Burkina Faso, Burundi, Cambodia, Central African Republic, Chad, Comoros, Democratic Republic of Congo, Djibouti, Equatorial Guinea, Eritrea, Ethiopia, Gambia, Guinea, Guinea-Bissau, Haiti, Kiribati, Laos, Lesotho, Liberia, Madagascar, Malawi, Mali, Mauritania, Mozambique, Nepal, Niger, Rwanda, Samoa, Sao Tome and Principe, Senegal, Sierra Leone, Solomon Islands, Somalia, South Sudan, Tanzania, Timor-Leste, Togo, Tuvalu, Uganda, Vanuatu, Yemen, or Zambia); or**

**(4) A Caribbean Basin country (Antigua and Barbuda, Aruba, Bahamas, Barbados, Belize, Bonaire, British Virgin Islands, Curacao, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, Saba, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Sint Eustatius, Sint Maarten, or Trinidad and Tobago).**

**“Designated country construction material” means a construction material that is a WTO GPA country construction material, a Free Trade Agreement country construction material, a least developed country construction material, or a Caribbean Basin country construction material.**

**“Domestic construction material” means—**

**(1) For construction material that does not consist wholly or predominantly of iron or steel or a combination of both—**

**(i) An unmanufactured construction material mined or produced in the United States; or**

**(ii) A construction material manufactured in the United States, if—**

**(A) The cost of its components mined, produced, or manufactured in the United States exceeds, for the entire period of performance for a contract awarded in: calendar year 2023, 60 percent of the cost of all its components; calendar years 2024 through 2028, 65 percent of the cost of all its components; or calendar year 2029 or later, 75 percent of the cost of all its components. Components of foreign origin of the same class or kind for which nonavailability determinations have been made are treated as domestic. Components of unknown origin are treated as foreign; or**

**(B) The construction material is a COTS item; or**

**(2) For construction material that consists wholly or predominantly of iron or steel or a combination of both, a construction material manufactured in the United States if the cost of iron and steel not produced in the United States (excluding fasteners) as estimated in good faith by the contractor, constitutes less than 5 percent of the cost of all the components used in such construction material (produced in the United States means that all manufacturing processes of the iron or steel must take place in the United States, except metallurgical processes involving refinement of steel additives). The cost of iron and steel not produced in the United States includes but is not limited to the cost of iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings, not produced in the United States, utilized in the manufacture of the construction material and a good faith estimate of the cost of all iron or steel components not produced in the United States, excluding COTS fasteners. Iron or steel components of unknown origin are treated as foreign. If the construction material contains multiple components, the cost of all the materials used in such construction material is calculated in accordance with the definition of “cost of components” in this clause.**

**“Free Trade Agreement country construction material” means a construction material that—**

**(1) Is wholly the growth, product, or manufacture of a Free Trade Agreement country; or**

**(2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a Free Trade Agreement country into a new and different construction material distinct from the material from which it was transformed.**

**“Least developed country construction material” means a construction material that—**

**(1) Is wholly the growth, product, or manufacture of a least developed country; or**

**(2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a least developed country into a new and different construction material distinct from the materials from which it was transformed.**

**“Predominantly of iron or steel or a combination of both” means that the cost of the iron and steel content exceeds 50 percent of the total cost of all its components. The cost of iron and steel is the cost of the iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings utilized in the manufacture of the product and a good faith estimate of the cost of iron or steel components excluding COTS fasteners.**

**“South Caucasus/Central and South Asian (SC/CASA) state” means Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Pakistan, Tajikistan, Turkmenistan, or Uzbekistan.**

**“SC/CASA state construction material” means construction material that—**

**(1) Is wholly the growth, product, or manufacture of an SC/CASA state; or**

**(2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in an SC/CASA state into a new and different construction material distinct from the material from which it was transformed.**

**“Steel” means an alloy that includes at least 50 percent iron, between 0.02 and 2 percent carbon, and may include other elements.**

**“United States” means the 50 States, the District of Columbia, and outlying areas.**

**“WTO GPA country construction material” means a construction material that—**

**(1) Is wholly the growth, product, or manufacture of a WTO GPA country; or**

**(2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a WTO GPA country into a new and different construction material distinct from the materials from which it was transformed.**

**(b) This clause implements the Balance of Payments Program by providing a preference for domestic construction material. In addition, the Contracting Officer has determined that the WTO GPA, Free Trade Agreements, and other waivers relating to acquisitions in support of operations in Afghanistan apply to this acquisition. Therefore, the Balance of Payments Program restrictions are waived for SC/CASA state and designated country construction materials.**

**(c) The Contractor shall use only domestic, SC/CASA state, or designated country construction material in performing this contract, except for—**

**(1) Construction material valued at or below the simplified acquisition threshold in FAR part 2;**

**(2) Information technology that is a commercial product; or**

**(3) The construction material or components listed by the Government as follows:**

***[Contracting Officer to list applicable excepted materials or indicate “none”].***

**(d) If the Contractor is from an SC/CASA state, the Contractor shall inform its government of its participation in this acquisition and that it generally will not have such opportunity in the future unless its government provides reciprocal procurement opportunities to U.S. products and services and suppliers of such products and services.**

**(End of clause)**

***Alternate VII*. As prescribed in 225.7503(b) and (b)(8), use the following clause, which includes, in the definition of “domestic construction material” at paragraph (1)(ii)(A), the domestic content threshold that will apply to the entire contract period of performance; adds “South Caucasus/Central and South Asian (SC/CASA state)” and “SC/CASA state construction material” to paragraph (a); uses a different paragraph (b) and introductory text for paragraph (c) than the basic clause; and adds paragraph (d):**

**BALANCE OF PAYMENTS PROGRAM—CONSTRUCTION MATERIAL UNDER TRADE AGREEMENTS—ALTERNATE VII (FEB 2024)**

**(a) *Definitions*. As used in this clause—**

**“Caribbean Basin country construction material” means a construction material that—**

**(1) Is wholly the growth, product, or manufacture of a Caribbean Basin country; or**

**(2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a Caribbean Basin country into a new and different construction material distinct from the materials from which it was transformed.**

**“Commercially available off-the-shelf (COTS) item”—**

**(1) Means any item of supply (including construction material) that is—**

**(i) A commercial product (as defined in paragraph (1) of the definition of “commercial product” in section 2.101 of the Federal Acquisition Regulation (FAR));**

**(ii) Sold in substantial quantities in the commercial marketplace; and**

**(iii) Offered to the Government, under a contract or subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace; and**

**(2) Does not include bulk cargo, as defined in section 3 of the Shipping Act of 1984 (46 U.S.C. 40102), such as agricultural products and petroleum products.**

**“Component” means any article, material, or supply incorporated directly into construction material.**

**“Construction material” means an article, material, or supply brought to the construction site by the Contractor or a subcontractor for incorporation into the building or work. The term also includes an item brought to the site preassembled from articles, materials, or supplies. However, emergency life safety systems, such as emergency lighting, fire alarm, and audio evacuation systems, that are discrete systems incorporated into a public building or work and that are produced as complete systems, are evaluated as a single and distinct construction material regardless of when or how the individual parts or components of those systems are delivered to the construction site. Materials purchased directly by the Government are supplies, not construction material.**

**“Cost of components” means—**

**(1) For components purchased by the Contractor, the acquisition cost, including transportation costs to the place of incorporation into the end product (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or**

**(2) For components manufactured by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1) of this definition, plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the construction material.**

**“Critical component” means a component that is mined, produced, or manufactured in the United States and deemed critical to the U.S. supply chain. The list of critical components is at FAR 25.105.**

**“Critical item” means domestic construction material or a domestic end product that is deemed critical to the U.S. supply chain. The list of critical items is at FAR 25.105.**

**“Designated country” means—**

**(1) A World Trade Organization Government Procurement Agreement (WTO GPA) country (Armenia, Aruba, Australia, Austria, Belgium, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea (Republic of), Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Moldova, Montenegro, Netherlands, New Zealand, North Macedonia, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Taiwan (known in the World Trade Organization as “the Separate Customs Territory of Taiwan, Penghu, Kinmen, and Matsu” (Chinese Taipei)), Ukraine, or the United Kingdom);**

**(2) A Free Trade Agreement country (Australia, Bahrain, Chile, Colombia, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Korea (Republic of), Mexico, Morocco, Nicaragua, Panama, Peru, or Singapore);**

**(3) A least developed country (Afghanistan, Angola, Bangladesh, Benin, Bhutan, Burkina Faso, Burundi, Cambodia, Central African Republic, Chad, Comoros, Democratic Republic of Congo, Djibouti, Equatorial Guinea, Eritrea, Ethiopia, Gambia, Guinea, Guinea-Bissau, Haiti, Kiribati, Laos, Lesotho, Liberia, Madagascar, Malawi, Mali, Mauritania, Mozambique, Nepal, Niger, Rwanda, Samoa, Sao Tome and Principe, Senegal, Sierra Leone, Solomon Islands, Somalia, South Sudan, Tanzania, Timor-Leste, Togo, Tuvalu, Uganda, Vanuatu, Yemen, or Zambia); or**

**(4) A Caribbean Basin country (Antigua and Barbuda, Aruba, Bahamas, Barbados, Belize, Bonaire, British Virgin Islands, Curacao, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, Saba, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Sint Eustatius, Sint Maarten, or Trinidad and Tobago).**

**“Designated country construction material” means a construction material that is a WTO GPA country construction material, a Free Trade Agreement country construction material, a least developed country construction material, or a Caribbean Basin country construction material.**

**“Domestic construction material” means—**

**(1) For construction material that does not consist wholly or predominantly of iron or steel or a combination of both—**

**(i) An unmanufactured construction material mined or produced in the United States; or**

**(ii) A construction material manufactured in the United States, if—**

**(A) The cost of its components mined, produced, or manufactured in the United States exceeds, for the entire period of performance for a contract awarded in: calendar year 2023, 60 percent of the cost of all its components; calendar years 2024 through 2028, 65 percent of the cost of all its components; or calendar year 2029 or later, 75 percent of the cost of all its components. Components of foreign origin of the same class or kind for which nonavailability determinations have been made are treated as domestic. Components of unknown origin are treated as foreign; or**

**(B) The construction material is a COTS item; or**

**(2) For construction material that consists wholly or predominantly of iron or steel or a combination of both, a construction material manufactured in the United States if the cost of iron and steel not produced in the United States (excluding fasteners) as estimated in good faith by the contractor, constitutes less than 5 percent of the cost of all the components used in such construction material (produced in the United States means that all manufacturing processes of the iron or steel must take place in the United States, except metallurgical processes involving refinement of steel additives). The cost of iron and steel not produced in the United States includes but is not limited to the cost of iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings, not produced in the United States, utilized in the manufacture of the construction material and a good faith estimate of the cost of iron or steel components not produced in the United States, excluding COTS fasteners. Iron or steel components of unknown origin are treated as foreign. If the construction material contains multiple components, the cost of all the materials used in such construction material is calculated in accordance with the definition of “cost of components” in this clause.**

**“Free Trade Agreement country construction material” means a construction material that—**

**(1) Is wholly the growth, product, or manufacture of a Free Trade Agreement country; or**

**(2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a Free Trade Agreement country into a new and different construction material distinct from the material from which it was transformed.**

**“Least developed country construction material” means a construction material that—**

**(1) Is wholly the growth, product, or manufacture of a least developed country; or**

**(2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a least developed country into a new and different construction material distinct from the materials from which it was transformed.**

**“Predominantly of iron or steel or a combination of both” means that the cost of the iron and steel content exceeds 50 percent of the total cost of all its components. The cost of iron and steel is the cost of the iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings utilized in the manufacture of the product and a good faith estimate of the cost of iron or steel components excluding COTS fasteners.**

**“South Caucasus/Central and South Asian (SC/CASA) state” means Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Pakistan, Tajikistan, Turkmenistan, or Uzbekistan.**

**“SC/CASA state construction material” means construction material that—**

**(1) Is wholly the growth, product, or manufacture of an SC/CASA state; or**

**(2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in an SC/CASA state into a new and different construction material distinct from the material from which it was transformed.**

**“Steel” means an alloy that includes at least 50 percent iron, between 0.02 and 2 percent carbon, and may include other elements.**

**“United States” means the 50 States, the District of Columbia, and outlying areas.**

**“WTO GPA country construction material” means a construction material that—**

**(1) Is wholly the growth, product, or manufacture of a WTO GPA country; or**

**(2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a WTO GPA country into a new and different construction material distinct from the materials from which it was transformed.**

**(b) This clause implements the Balance of Payments Program by providing a preference for domestic construction material. In addition, the Contracting Officer has determined that the WTO GPA, all Free Trade Agreements except United States-Mexico-Canada Agreement and the Bahrain Free Trade Agreement, and other waivers relating to acquisitions in support of operations in Afghanistan apply to this acquisition. Therefore, the Balance of Payments Program restrictions are waived for SC/CASA state and designated country construction material other than Bahraini or Mexican construction material.**

**(c) The Contractor shall use only domestic, SC/CASA state, or designated country construction material other than Bahraini or Mexican construction material in performing this contract, except for—**

**(1) Construction material valued at or below the simplified acquisition threshold in FAR part 2;**

**(2) Information technology that is a commercial product; or**

**(3) The construction material or components listed by the Government as follows:**

***[Contracting Officer to list applicable excepted materials or indicate “none”]*.**

**(d) If the Contractor is from an SC/CASA state, the Contractor shall inform its government of its participation in this acquisition and that it generally will not have such opportunity in the future unless its government provides reciprocal procurement opportunities to U.S. products and services and suppliers of such products and services.**

**(End of clause)]**