

The Awarded Distributor must cooperate with the HPS Institutions that are SFAs in order to facilitate their compliance, and their monitoring of compliance, with this or future, or as amended, Buy American provision(s). This includes certification by the Awarded Distributor as to the percentage of U.S. content in domestic commodities or products supplied to SFAs. If the Awarded Distributor is unable or unwilling to make such certification or otherwise fails to comply with this Buy American provision, the SFAs will not purchase from the Awarded Distributor and may terminate their Individual Member/Participant Agreements with the Awarded Distributor. **By signing and submitting a proposal, the responding vendor certifies that the agricultural commodities and food products it proposes to supply to each SFA will be domestic commodities or products. In addition, the Awarded Distributor must provide each SFA with ongoing certification, on food products delivered, on invoices submitted and by other means as appropriate, (i) that agricultural commodities supplied to the SFA were produced in the United States, (ii) that food products supplied to the SFA were processed in the United States, and (iii) that the percentage of U.S. content, by weight or volume, in the food component of processed food products supplied to the SFA exceeds 51%. SFAs may also require the Awarded Distributor to certify the actual percentage of U.S. content, by weight or volume, in the food component of processed food products supplied to the SFAs.**

Exceptions to the foregoing Buy American provision are very limited; however, an alternative or exception may be approved by individual SFAs upon the vendor's request. To be considered for an alternative or exception, the request must be submitted in writing or by electronic transmission to the SFA, Attention: Food Service Director, a minimum of 1 day in advance of delivery. The request must include either:

- A. The alternative substitute(s) that are domestic and meet the required specifications, together with:
 - (i) Price of the domestic food alternative substitute(s); and
 - (ii) Availability of the domestic alternative substitute(s) in relation to the quantity ordered; or
- B. The reason for exception: limited/lack of availability or price (include price information):
 - (i) Price of the domestic food product; and
 - (ii) Price of the non-domestic product that meets the required specification of the domestic product.

11. Contract Work Hours and Safety Standards Act. Where applicable and in accordance with Appendix II to 2 CFR Part 200 ¶ (E), all contracts awarded by a non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C.3702, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than 1.5 times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence. **Agreed**