

6-103.2 Nonavailability in the United States. The Buy American Act does not apply to articles, materials, or supplies of a class or kind which the Government has determined are not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality. See 6-105.

6-103.3 Unreasonable Cost or Inconsistency With the Public Interest. The restrictions of the Buy American Act do not apply when it is determined by the Secretary concerned that the cost of a domestic source end product would be unreasonable or that its acquisition would be inconsistent with the public interest. Such determination shall be made in accordance with 6-104.4.

6-103.4 Scrap. Scrap generated in, collected in, and prepared for processing in the United States shall be considered as of domestic origin.

6-103.5 Canadian Supplies.

(a) *Listed.* The secretaries of the Departments have determined that it would be inconsistent with the public interest to apply the restrictions of the Buy American Act with respect to certain supplies, which have been determined to be of a military character or involved in programs of mutual interest to the United States and Canada, where such supplies are mined, produced, or manufactured in Canada and either (i) are Canadian end products or (ii) are incorporated in end products manufactured in the United States. Each Department maintains a list of these supplies, which is approved by the Secretary concerned. (The Departmental lists provide that parts and equipment for listed supplies are considered to be included in the lists, even though not separately listed, when they are procured under a contract that also calls for listed supplies.)

(b) *Not Listed.* The secretaries of the Departments have also determined that it would be inconsistent with the public interest to apply the restrictions of the Buy American Act (i) to the acquisition of any *unlisted* Canadian end product that is offered by a bid or proposal which is the lowest acceptable bid or proposal after any applicable duty (whether or not a duty-free entry certificate may be issued) is included for evaluation purposes, and (ii) with respect to any supplies mined, produced, or manufactured in Canada that are incorporated in end products manufactured in the United States.

(c) *Application of Canadian Exception.* The effect of (a) and (b) above may be summarized as follows.

(1) As to any end product that is manufactured in the United States, all Canadian components are treated as components mined, produced, or manufactured in the United States for the purpose of determining whether the end product is a domestic source end product.

(2) Listed Canadian end products are treated as domestic source end products and neither duty nor the evaluation factors prescribed by 6-104.4 shall be used for evaluation.

(3) Unlisted Canadian end products are evaluated by including any applicable duty, whether or not a duty-free entry certificate may be issued.

(d) *Limitations.* The above exceptions from the provisions of the Buy American Act which are applicable solely with respect to Canadian supplies, and the special procedures relating thereto which are set forth in this Part, do not apply to, or affect determinations made with respect to, (i) items contained in the list set forth in 6-105, (ii) the purchase of supplies for civil works acquired with funds appropriated for Civil Functions, Department of the Army, or (iii) food items.

6-103.6 Panamanian Supplies for use in the Canal Zone. In accordance with the Memorandum of Understandings ancillary to the Treaty with the Republic of Panama signed 25 January 1955, the Secretaries have determined that it would be inconsistent with the public interest to apply the restrictions of the Buy American Act to articles, materials, or supplies that are mined, produced, or manufactured in Panama and are purchased for use in the Canal Zone.

6-104 Procedures.

6-104.1 Applicability. The following procedures apply to all contracts involving the procurement of supplies except contracts exclusively for articles, materials, or supplies, for use outside the United States, (but see 6-103.5(a)).

6-104.2 Solicitation of Bids and Proposals. Invitations for Bids and Requests for Proposals shall state that specific information as to articles, materials, and supplies excepted from the Buy American Act (see 6-105) is available to prospective contractors upon request.

6-104.3 Certificate. Invitations for Bids and Requests for Proposals shall require that each bid or proposal include a certificate substantially as follows: