

VAAR 852.236-89 Buy American Act.

As prescribed at [§825.1102](#), insert the following clause:

BUY AMERICAN ACT (JUL 2002)

1. Reference is made to the clause entitled "Buy American Act - Balance of Payments Program - Construction Materials," [FAR 52.225-9](#).
2. Notwithstanding a bidder's right to offer identifiable foreign construction material in its bid pursuant to [FAR 52.225-9](#), VA does not anticipate accepting an offer that includes foreign construction material.
3. If a bidder chooses to submit a bid that includes foreign construction material, that bidder must provide a listing of the specific foreign construction material he/she intends to use and a price for said material. Bidders must include bid prices for comparable domestic construction material. If VA determines not to accept foreign construction material and no comparable domestic construction material is provided, the entire bid will be rejected.
4. Any foreign construction material proposed after award will be rejected unless the bidder proves to VA's satisfaction: (1) it was impossible to request the exemption prior to award, and (2) said domestic construction material is no longer available, or (3) where the price has escalated so dramatically after the contract has been awarded that it would be unconscionable to require performance at that price. The determinations required by (1), (2), and (3) of this paragraph shall be made in accordance with subpart [825.2](#) and FAR 25.2.
5. By signing this bid, the bidder declares that all articles, materials and supplies for use on the project shall be domestic unless specifically set forth on the Bid Form or addendum thereto.

(End of Cause)

Alternate I (JUL 2002). As prescribed in [§825.1102\(b\)](#), substitute the following paragraphs for paragraphs [\(a\)](#) and [\(b\)](#) of the basic clause:

1. Reference is made to the clause entitled "Buy American Act - Balance of Payment Program - Construction Materials under Trade Agreements," [FAR](#) 52.225-11.
2. The restrictions contained in this clause 852.236-89 are waived for Trade Agreements Act (TAA) designated country construction material, as defined in [FAR](#) 52.225-11. Notwithstanding a bidder's right to offer identifiable foreign construction material in its bid pursuant to [FAR](#) 52.225-11, VA does not anticipate accepting an offer that includes foreign construction material, other than TAA designated country construction material.

Alternate II (JUL 2002). As prescribed in [§825.1102\(c\)](#), substitute the following paragraphs for paragraphs [\(a\)](#) and [\(b\)](#) of the basic clause:

1. Reference is made to the clause entitled "Buy American Act - Balance of Payment Program - Construction Materials under Trade Agreements," [FAR](#) 52.225-11.
2. The restrictions contained in this clause 852.236-89 are waived for Trade Agreements Act (TAA) designated country construction material and North American Free Trade Agreement (NAFTA) country construction material, as defined in [FAR](#) 52.225-11. Notwithstanding a bidder's right to offer identifiable foreign construction material in its bid pursuant to [FAR](#) 52.225-11, VA does not anticipate accepting an offer that includes foreign construction material, other than TAA designated country construction material or NAFTA country construction material.