

## GSA ORDER

Subject: General Services Administration Acquisition Manual; GSAM Part 525, Foreign Acquisition, GSAR Case 2017-G504, Buy American Act Exception Approvals

1. Purpose. This order transmits a revision to the General Services Administration Acquisition Manual (GSAM).
2. Background. The General Services Administration (GSA) is amending the GSAM coverage on Buy American Act Exceptions, to incorporate requirements from Executive Order 13788 and to provide consistency with the Federal Acquisition Regulation (FAR).

Executive Order (E.O.) 13788, Buy American and Hire American, was signed by the President on April 18, 2017. This E.O. includes acquisition requirements to help stimulate economic growth and support the American manufacturing base. Executive agencies are directed to maximize use of goods, products, and materials produced in the United States through Federal procurements. To that end, Section 4 of the E.O. discusses judicious use of waivers and provides instructions specific to determinations of public interest waivers.

3. Effective date. Date of Signature.
4. Explanation of changes. This amendment includes non-regulatory changes. For full text changes of the amendment see Appendix A, GSAM Text Line-In/Line-Out.

This amendment revises the language of the following GSAM subparts, changes summarized below:

- 525.1 (Buy American Act — Supplies)
- 525.2 (Buy American Act — Construction Materials)

GSAM 525.1 (Buy American Act — Supplies):

- 525.103(a) – Removed authority for Head of Contracting Activity (HCA) to approve public interest exceptions to the Buy American Act. Added text to clarify that Head of Agency approval is required for public interest exceptions and that the authority may not be redelegated. Added text to require consideration of cost advantages of foreign sourced steel, iron, or manufactured goods.
- 525.103(b) – Removed authority for HCA to redelegate authority to approve nonavailability exceptions to the Buy American Act.

GSAM 525.2 (Buy American Act — Construction Materials):

- 525.202(a) – Removed authority for Head of Contracting Activity (HCA) to approve public interest exceptions to the Buy American Act. Added text to clarify that Head of Agency approval is required for public interest exceptions and that the authority may not be redelegated. Added text to require consideration of cost advantages of foreign sourced steel, iron, or manufactured goods.
- 525.202(b) – Removed authority for HCA to redelegate authority to approve nonavailability exceptions to the Buy American Act.



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## Appendix A

### GSAR Case 2017-G504 “Buy American Act Exception Approvals”

#### GSAM Text, Line-In/Line-Out

#### GSAM Baseline: Change 83 effective 02/22/2018

- Additions to baseline are indicated by **[bold text in brackets]**
- Deletions to baseline are indicated by ~~strikethroughs~~
- Five asterisks (\*\*\*\*\* ) indicate that there are no revisions between the preceding and following sections
- Three asterisks (\*\*\*) indicate that there are no revisions between the material shown within a subsection

## Part 525— Foreign Acquisition

### Subpart 525.1— Buy American Act— Supplies

#### 525.103 Exceptions.

(a) Public Interest. ~~The HCA is authorized to make the determination required by FAR 25.103(a). The HCA may not redelegate this authority.~~

**[(1) Only the head of the agency may make the determination required by FAR 25.103(a). The head of the agency may not redelegate this authority.]**

**[(2) The determination must consider the cost advantages of any foreign sourced steel, iron, or manufactured goods.]**

(b) **[Nonavailability.]**

**[(1)] Class Determination[s]. FAR 25.103(b)(1)(i) does not allow for class determinations to be made at the agency level.**

**(e) [(2)] Class Determination[s—]—Notice of Availability. Regarding FAR 25.103(b)(1)(iii)(C), documentation supporting removal of an item from the list of Nonavailable Articles at FAR 25.104 should be submitted by the contracting officer to the Senior Procurement Executive (SPE) in the Office of the Chief Acquisition Officer. The SPE will determine whether the documentation should be forwarded to the Civilian Agency Acquisition Council (CAAC).**

**(d) [(3)] Individual Determinations[. Only the HCA may make the determination required by FAR 25.103(b)(2)(i). The HCA may not redelegate this authority.] — Nonavailability. For the one-time, single procurement determination required by FAR 25.103(b)(2)(i):**

<b>If the estimated value of the supplies...</b>	<b>Then...</b>
<del>Exceeds \$100,000.</del>	<del>Only the HCA may make the determination. The HCA may not redelegate this authority.</del>
<del>Does not exceed \$100,000.</del>	<del>The HCA may redelegate authority to make the</del>

~~determination.~~

(e) [(4)] Individual Determinations—Notice of Nonavailability. Regarding ~~W[w]~~hen the contracting officer considers that non-availability of an item will affect future acquisitions (see FAR 25.103(b)(2)(ii)), documentation supporting the addition of articles to the list of Nonavailable Articles at FAR 25.104 should be submitted by the contracting officer to the SPE. The SPE will determine whether the documentation should be forwarded to the CAAC.

**Subpart 525.2— Buy American Act— Construction Materials**

**525.202 Exceptions.**

(a) Public Interest. ~~The HCA is authorized to make the determination required by FAR 25.202(a)(1). The HCA may not redelegate this authority.~~

[(1) Only the head of the agency may make the determination required by FAR 25.202(a)(1). The head of the agency may not redelegate this authority.]

[(2) The determination described in FAR 25.202(b) must consider the cost advantages of any foreign sourced steel, iron, or manufactured goods.]

(b) Nonavailability. [Only the HCA may make the determination required by FAR 25.202(a)(2). The HCA may not redelegate this authority.] ~~For the determination under FAR 25.202(a)(2):~~

<del>If the estimated cost of materials...</del>	<del>Then...</del>
<del>Exceeds \$100,000.</del>	<del>Only the HCA may make the determination. The HCA may not redelegate this authority.</del>
<del>Does not exceed \$100,000.</del>	<del>The HCA may redelegate authority to make the determination.</del>

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