

CHAPTER 5: PURCHASING RULES

11. Buy American Preference.

- a. Purpose. The Board wishes to support the Buy American Act of 1933, as set forth in 41 U.S.C. Chapter 83, and the Presidential Executive Orders reiterating the intent to use the Buy American Act to the greatest extent permitted by law by providing a preference for the use of American-made Goods when County funds are expended. A domestic preference for Goods that are manufactured, assembled or produced in the United States encourages the selection and utilization of American-made Goods which in turn promotes the local and regional economy, as well as strengthens state and national economic interests. Further, a domestic preference promotes security, good government and the general convenience of the County's citizens.
- b. Applicability.
 - i. A Buy American Preference shall apply when fifty-one percent (51%) of the components of the final Good manufactured, assembled or produced to be sold to the County is made in the United States and an affidavit supporting the assertion that fifty-one percent (51%) of the components of the Good is American manufactured, assembled or produced, along with supporting documentation, is submitted with the Bid or written Quote.
 - ii. The Purchasing Director shall resolve any issues relating to the applicability of the Buy American Preference, and that decision on the applicability of whether a Buy American Preference applies shall not be disputed nor protested.
- c. Preference.
 - i. Bids/Written Quotes. For purchases secured through competitive Bids or written Quotes and except where federal, state or local laws, regulations or policies mandate to the contrary, a Buy American Preference will be given to a Responsive and Responsible Bid offering American manufactured, assembled, or produced Goods, that is within five percent (5%) of and does not exceed by more than \$250,000 the lowest Responsive and Responsible Bid or written Quote submitted. The Bidder qualifying for the Buy American Preference will be entitled to match or beat the lowest Bid or written Quote submitted and then be considered the lowest, best Bidder. The Purchasing Department will notify the Responsive and Responsible lowest Bidder qualifying for the Buy American Preference that they have forty-eight (48) business hours to re-submit a Bid or written Quote that matches or beats the low Bid or written Quote by the lowest Bidder. If the lowest Bidder qualifying for the Buy American Preference fails to respond as required confirming its ability to match or beat the lowest Bid or written Quote submitted, then an award shall be made to the lowest Responsive and Responsible Bid or written Quote submitted.

- ii. Proposals. For purchases secured through a competitive Request for Proposal where price is not the only consideration, five (5) points preference will be applied to the total individual Evaluation Committee member's score.
- d. The preference established for Buy American in no way prohibits the right of the Board to award Bids, Quotes, or Proposals which would be in the Best Interest of the County or reject any and all Bids, Quotes, or Proposals. As such, the Board reserves the exclusive right to compare, contrast and otherwise evaluate the qualifications, character, responsibility and financial qualifications of all persons, firms, partnerships, companies or corporations submitting Bids, Quotes, or Proposals in response to any purchase of Goods and Services when making an award in the Best Interests of the County.
- e. Exemptions. The provisions of this section do not apply to:
 - i. Purchases or Contracts with an estimated cost of less than \$20,000.00. The Purchasing Director and staff will use their best efforts to select Goods manufactured, assembled or produced in the United States if the quality and price are comparable with other Goods.
 - ii. Contracts for Consultants.
 - iii. Purchases or Contracts for the construction/renovation of public buildings, facilities, public works, or other public construction projects.
 - iv. Goods or Services provided under a cooperative purchasing agreement or utilization of other agency contracts (piggyback contracts).
 - v. Purchases resulting from exigent emergency conditions where any delay in completion or performance would jeopardize public health, safety, or welfare of the citizens of the County, or where in the judgment of the County the operational effectiveness or a significant County function would be seriously threatened if a purchase was not made expeditiously.
 - vi. Purchases with any sole source supplier for Goods or Services.
 - vii. The Bid, written Quote or Proposal is determined to be nonresponsive or unqualified to perform the work as determined by the County.
 - viii. The Bid, written Quote or Proposal exceeds the projected budget.
- f. Waiver. The application of the Buy American Preference to a particular Bid, written Quote, Proposal, or Contract may be waived by the Board.