

Buy American Flow Chart

Is the Food Purchase Allowed?

Use this flow chart to determine if a food product can be purchased and how it should be tracked for Buy American compliance.

Start

Identify the food product you plan to purchase for the school nutrition programs.

Step 1: Is the product a domestically produced commodity or product?

An agricultural commodity that is produced in the U.S.; or a food product processed in the U.S. using > 51% U.S. agricultural commodities.

Yes

Purchase Allowed

Count as a domestic purchase.

No

Step 2: Is the product listed on the FAR 25.104 Non-available Articles List?

(48 CFR 25.104) Examples include certain spices, mandarin oranges, etc.

Yes

Purchase Allowed under Exception 1

- No further documentation needed (FAR list serves as documentation).
- Must be tracked and counted toward the non-domestic cap.

No

Step 3: Is the product not produced or manufactured in the U.S. in sufficient and reasonably available quantities of a satisfactory quality?

Yes

Purchase Allowed under Exception 1

- Maintain documentation to support the justification.
- Must be tracked and counted toward the non-domestic cap.

No

Step 4: Do competitive bids show the cost of the U.S. product is significantly higher than the non-domestic product?

Yes

Purchase Allowed under Exception 2

- Maintain documentation to competitive bids.
- Must be tracked and counted toward the non-domestic cap.

No

Purchase Not Allowed

The product does not meet the Buy American requirement and does not qualify for an exception.

Track and Monitor

- Track all non-domestic purchases (including those under an exception).
- Compare non-domestic food costs to total commercial food purchases.
- Ensure non-domestic purchases do not exceed the annual threshold:
 - 10% in the current school year
 - 8% in school year 2028–29
 - 5% in school year 2031–32
- If unable to meet the threshold in the current school year, request a temporary accommodation from Maine DOE (only for items that qualify under an exception).

Compliant Purchase

Purchase the product, maintain required documentation, and include in your Buy American tracking.

Key Definitions

Domestic commodity or product:

An agricultural commodity produced in the U.S.; and a food product processed in the U.S. using > 51% U.S. agricultural commodities.

Significantly higher: Determined by the SFA on a case-by-case basis through competitive bids.

Total commercial food purchases:

All food purchases for the school nutrition programs (including a la carte/catering and local foods), after discounts (e.g., NOI). Does not include USDA Foods ("brown box" items) or delivery/storage fees.

Items to Include in the Cap

- ✓ All non-domestic foods items purchased using School Nutrition funds for the NSLP, SBP & ASSP.

Items NOT Included in your Cap but included in total food cost

- ✗ USDA Foods ("brown box" items).
- ✗ USDA Foods delivery fees and storage fees (categorize as "other" cost).
- ✗ Fresh Fruit & Vegetable Program (FFVP) purchases.

Remember

- ✓ Purchase domestic foods to the maximum extent practicable.
- ✓ Use the two limited exceptions when necessary.
- ✓ Maintain documentation.
- ✓ Track and monitor non-domestic purchases.
- ✓ Stay within the annual threshold (or request a temporary accommodation for the current school year if eligible).
- ✓ Include Buy American in procurement procedures and product specifications.
- ✓ Plan menus around USDA foods and consider Farm and Sea to School and the Local Foods Fund.