MAINE DEPARTMENT OF EDUCATION
Child Nutrition Programs

Buy American Compliance

Fall Info Meeting October 23, 2025

Presented by: David Hartley, Child Nutrition

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SP 23-2024

Buy American Provisions Related to the Final Rule Titled, *Child Nutrition Programs: Meal Patterns Consistent With the 2020-2025 Dietary Guidelines for Americans*

The Buy American provision requires school food authorities to purchase, to the maximum extent practicable, domestic commodities or products.

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What items are included?

- Creditable food components.
  - Meat/meat alternates
  - Fruits: whole, juice, canned, frozen.
  - Vegetables: whole, juice, canned, frozen.
  - Grains
  - Milk

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What items are not included?

- Spices
- Sauces
- Paper
- Plastic
- Wrapping material
- Broths

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Timeline

- (A) By July 1, 2025, non-domestic food purchases must not exceed 10 percent of total annual commercial food costs that a school food authority purchases per school year.
- (B) By July 1, 2028, non-domestic food purchases must not exceed 8 percent of total annual commercial food costs that a school food authority purchases per school year.
- (C) By July 1, 2031, non-domestic food purchases must not exceed 5 percent of total annual commercial food costs that a school food authority purchases per school year.

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7 CFR 210.21(d) – NSLP
7 CFR 220.16(d) - SBP

- (d) ***Buy American*** —
  - (1) ***Definitions.*** For the purpose of this paragraph (d):
    - (i) ***Domestic commodity or product*** means:
      - (A) An agricultural commodity that is produced in the United States; and
      - (B) A food product that is processed in the United States substantially using agricultural commodities that are produced in the United States.
    - (ii) ***Substantially using agriculture commodities that are produced in the United States*** means over 51 percent of a food product must consist of agricultural commodities that were grown domestically.

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Procuring Products

- 7 CFR 210 and 220:

- (3) ***Required language.*** School food authorities must include language requiring the purchase of foods that meet the Buy American requirements in paragraph (d)(1) of this section in all procurement procedures, solicitations, and contracts.

- Documentation MUST be maintained

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Procurement Procedures

USDA codified in Program regulations the requirement for school food authorities to include the Buy American provisions in all procurement procedures, solicitations, and contracts. Inclusion of this language in procurement materials is already widely implemented by school food authorities and is codified through this rulemaking.

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The final rule codifies the two limited exceptions as follows:

- The product is listed on the Federal Acquisitions Regulations Non-available articles list found at 48 CFR 25.104 and/or is not produced or manufactured in the U.S. in sufficient and reasonably available quantities of a satisfactory quality; or

- Competitive bids reveal the costs of a U.S. product are significantly higher than the non-domestic product.
  - MUST be documented

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LIMITED EXCEPTIONS

Certain items that are not Buy American compliant do not need a waiver to purchase –

However; they are still calculated as part of the percentage target

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EXCEPTIONS DOCUMENTATION

The product is listed on the Federal Acquisitions Regulations Nonavailable articles list found at 48 CFR 25.104 and/or is not produced or manufactured in the U.S. in sufficient and reasonably available quantities of a satisfactory quality;

48 FAR 25.104 None available items:

- bananas
- mandarin oranges
- canned pineapple

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Procedure to Request an Accommodation for the Buy American 10% CAP - SY 2026

- To request an accommodation:
  - Email request to sarah.d.platt@maine.gov.
  - Attach documentation to support the request - showing in detail how the SFS anticipates the 10% CAP will be exceeded. Include amounts spent on commercial and non-compliant food purchases in SY2026.
  - Include justification as to why menu changes, such as serving non-compliant items less frequently, are not feasible.
- Documentation will be reviewed by the State Agency.

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TRACKING

#	SCHOOL NAME	INVOICE NUMBER	INVOICE DATE	SOURCE	FOOD COMPONENT	ALL FOOD ITEMS OR NON-DOMESTIC	EXCEPTION TYPE	TOTAL AMOUNT ALL FOOD ITEMS	TOTAL NON-DOMESTIC FOOD ITEMS	
TOTALS								$ 985.32	$ 75.34	7.65%
1		358cdt	09/13/25	Dennis paper	ALL FOOD ITEMS	ALL FOOD ITEMS		$ 985.32		
2		358cdt	09/13/25	Dennis paper	ALL FOOD ITEMS	ALL FOOD ITEMS	canned pineapple		$ 75.34	

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Tracking Tool

- ME Child Nutrition web page, “Financial”
- https://www.maine.gov/doe/schools/nutrition/financial

Buy American Tracker Tool

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Consequences?

- What happens if a Sponsor is not in compliance with the Buy American Provision?
  - Tracking
  - Exceeding percentage requirement

- Training and assistance will be given to help the Sponsor to be in compliance.

- During an AR Sponsors not in compliance with tracking will be required to complete Corrective Action.

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Reporting Buy American

- In the spring towards the end of the school year a Microsoft form will be posted on the Child Nutrition web page. This will request information about how your buy American tracking went during the 2026 School Year.
- Information requested will be:
  - School District
  - What percentage of your food purchases was not compliant with the Buy American requirement
  - What were the top three items that were non-Buy American

More information will be added to the listserv in the spring

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Questions

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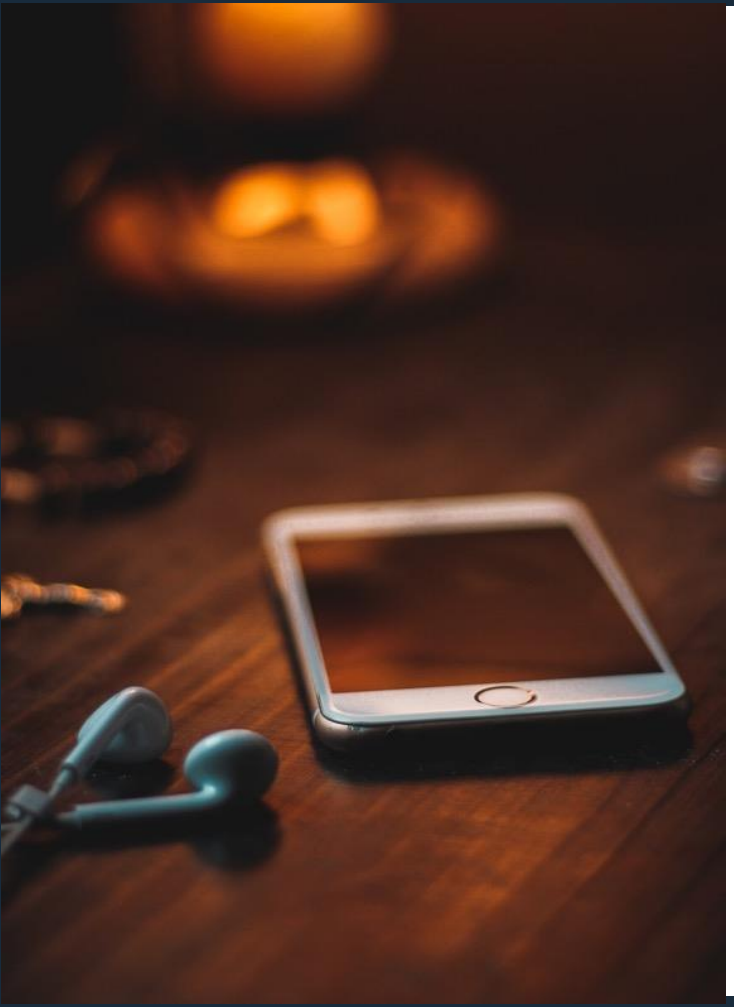

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