

Buy American Provision



Food Storage: On-site observation during Administrative Review

Procedure:

- CDE will review various food items for compliance with the Buy American provision. Depending on where food items are stored at your district, you can expect:
 - On-site **school storage** only: CDE will review 2-3 items in each food category (see list below)
 - Off-site **warehouse storage facilities** only: CDE will review 2-3 items in each food category
 - **Combination** of on-site and off-site storage: CDE will review 1-2 items in each food category at 1) the on-site school storage and 2) the off-site storage facility
- Reviewed Food Categories:
 1. Bakery, pasta, and miscellaneous (flour, cornmeal, sugar, pasta, rice, etc.)
 2. Canned fruit and fruit juice
 3. Canned vegetables and vegetable juice
 4. Frozen fruit and fruit juice
 5. Frozen vegetables and vegetables juice
 6. Frozen meat/entrée items
 7. Refrigerated foods (produce, dairy items, etc.)
- SFA is compliant if:
 - All meal component items served by the SFA are grown and processed in the United States/territories
 - Documentation exists to support exceptions to the Buy American requirements
 - Solicitations for food products includes a requirement that goods must be produced and processed in the United States
- SFA is noncompliant if no documentation is provided to:
 - Support the exception of non-domestic food purchases
 - Example: If the label notes a product is “a product of Mexico” the SFA may be out of compliance if the exception was not first documented by the SFA (i.e. as an exception)
 - Show consideration for purchase of alternative domestic products as substitutes when the food product ordered is prohibitively costly or sufficient quantity is not available

Incomplete Label Considerations:

- The label only notes that a product was processed in the USA, but does not note the product’s origin
- Cannot determine from the label where the product was produced and processed
- If solicitation/contract documents contain the Buy American provision language or language on requirement to provide domestic foods, then product is compliant with Buy American

Technical Assistance/Corrective Action may include ensuring:

- SFA is completing documentation for all exceptions to the Buy American provision;
- Solicitation and contract language that includes the purchase of domestic foods requirement (7 CFR 210.21(d));
- SFA procurement and receiving staff obtain training to ensure vendor responses to bids/proposals include domestic foods and to review food deliveries to determine the country of origin is the United States or territories, as applicable, prior to accepting foods.

More information on the Buy American Provision, including an exceptions worksheet you can use, can be found at: <https://www.cde.state.co.us/nutrition/osnprocurement>

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