

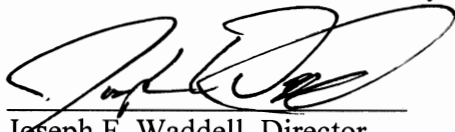
DEPARTMENT OF ENERGY
NATIONAL NUCLEAR SECURITY ADMINISTRATION
DETERMINATION AND FINDINGS
DEPARTMENT OF ENERGY ACQUISITION REGULATION (DEAR)
CLASS DEVIATION
BUY AMERICAN ACT EXCEPTION
DEAR 970.5244-1

Findings

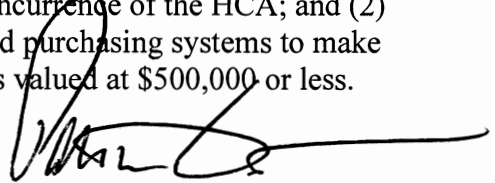
1. DEAR 970.5244-1, Contractor Purchasing System, paragraph (g) Buy American, requires Management and Operating (M&O) contractors to comply with the Buy American Act as set forth at 48 CFR 52.225-1 and 48 CFR 52.225-9.
2. M&O contractors are required to forward determinations of non-availability of individual items to the DOE Contracting Officer for approval. Items in excess of \$100,000 require the prior concurrence of the Head of the Contracting Activity (HCA). However, if the M&O contractor has an approved purchasing system, the HCA may authorize the contractor to make determinations of non-availability for individual items valued at \$100,000 or less.
3. In an effort to reduce administrative processing time, and to allow more flexibility for M&O contractors, the dollar threshold is to be increased from \$100,000 to \$500,000 for (1) determinations of individual item non-availability requiring the prior concurrence of the HCA; and (2) HCA authorization of M&O contractors with approved purchasing systems to make determinations of non-availability for individual items valued at \$500,000 or less.
4. The DEAR will be appropriately amended to reflect these changes in an upcoming rulemaking.

Determination

It is hereby determined that a class deviation from DEAR 970.5244-1(g) is appropriate to increase the dollar threshold from \$100,000 to \$500,000 for: (1) determinations of individual item non-availability requiring the prior concurrence of the HCA; and (2) HCA authorization of M&O contractors with approved purchasing systems to make determinations of non-availability for individual items valued at \$500,000 or less.



Joseph F. Waddell, Director
Office of Acquisition and
Supply Management, NNSA



Patrick M. Ferraro, Acting Director
Office of Procurement and
Assistance Management, DOE

Effective Date: August 29, 2011