Sample Monitoring Procedures for the USDA Child Nutrition Buy American Provision

**Monitoring of Contract(s)**

1. Confirm applicable and sufficient Buy American contract language is included in ALL procurements when purchasing agricultural processed or unprocessed products.
   1. When utilizing the “over-the-phone” procurement method (one option for conducting a *Small Purchase*), verbally state the Buy American provision requirement.
   2. Include language in the solicitation and contract on how the bidder/offeror would address alternative methods to comply with the Buy American provision, if needed.
   3. Include language in the solicitation and contract that establishes the method of requesting exceptions before supplying nondomestic products.
   4. Monitor and ensure compliance of solicitation and contract language.

**Proactive Compliance Step One**: After awarding contract, set up a meeting with the distributor or vendor to discuss product list and identify products that could have compliance issues with the Buy American provision. Develop a plan with the distributor or vendor to address possible compliance issues and how compliance issues will be communicated, tracked, and resolved.

**Proactive Compliance Step Two:** At the time of ordering, re-confirm with distributor or vendor the country of origin of the products being ordered unless noted in ordering system; note any possible issues and compliance resolutions. Communicate this information to the person or area receiving products at the school.

1. Track Noncompliance Buy American Products:

* [*Buy American – Noncompliant Product List*](https://dpi.wi.gov/sites/default/files/imce/school-nutrition/doc/buy-american-noncompliant-list.docx) (Schools may use this document to track product(s) purchased which do not comply with the Buy American provision)
* [*Buy American Provision Attestation for Agricultural Product(s) Purchased Between School and Contractor*](https://dpi.wi.gov/sites/default/files/imce/school-nutrition/doc/buy-american-attestation.docx)(Schools may use this attestation to track product(s) which do not have country of origin labeling and for purchases that do not comply with the Buy American provision)

**Monitoring When Receiving Deliveries**

1. Review products as they are received to identify any nondomestic products. If necessary use applicable *Tracking Noncompliant Product List* Log/Form/Spreadsheet to track noncompliant products.
2. Review any substituted products to ensure they are domestic. If the country of origin information is not identified on product packaging, contact the distributor or vendor to obtain this information.
3. Implement a process for tracking and addressing the distributor’s or vendor’s a noncompliance if any nondomestic products are received.

**Monitoring All Areas Where Food Products Are Stored**

1. Develop a schedule (monthly, quarterly, or periodically) for reviewing all storage areas to identify any nondomestic products. Some schools monitor Buy American compliance while conducting a monthly physical inventory.
2. Identify any nondomestic products in storage areas and track them in noncompliance log noting any noncompliant resolutions.
3. Implement a process for tracking and addressing the distributor’s or vendor’s noncompliance if any nondomestic products are newly identified.

**Process to Address Vendor’s Noncompliance**

1. If a nondomestic product is identified:
2. Refer to the *Buy American Noncompliant Product List* to check if the noncompliant product has been approved by the school.
3. If unapproved nondomestic product is found during delivery and the need for the product in meal production will allow a delay, reject the product.
4. If unapproved nondomestic product is found during inventory inspection and while reviewing prep/kitchen areas where food products are stored, pull the product from storage and/or indicate that the product should not be used.
5. Notify the distributor or vendor that an unapproved nondomestic product was received and that per the contract a replacement with a domestic product is required to be provided.
6. Document and track the incidence of the distributor’s or vendor’s noncompliance of the Buy American provision.
7. If applicable or if the contract allows, utilize a penalty clause in the awarded contract to assess penalties for incidences of noncompliance with the contract provision. (Penalty clause may include fines for multiple violations.)
8. If applicable or the situation warrants it, utilize the termination clause for termination of the contract for noncompliance of contractual requirements.
9. Consider the distributors or vendor’s noncompliance history or record when evaluating whether to renew the contract.