



Buy American Exception Form

The Food and Nutrition Service (FNS) is enforcing the Buy American provision in 7 CFR Part 210.21(d), which requires School Food Authorities (SFAs) to purchase, to the maximum extent practicable, domestic commodities or products. School food authorities must include the Buy American provisions in all procurement procedures, solicitations, and contracts. This applies to food products purchased for use in Child Nutrition Programs by SFAs and entities acting on behalf of an SFA.

When the use of domestic foods is truly not practicable, two exceptions to the Buy American provision allow for the purchase of non-domestic products. The following exceptions are to be used as a last resort:

- **Availability:** 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.
- **Cost:** Competitive bids reveal the costs of a U.S. product are significantly higher than the non-domestic product.

Before utilizing an exception, alternatives to purchasing non-domestic products should be considered. For example, SFAs should ask the following questions:

1. Are there domestic sources for this product?

☐ Yes ☐ No

2. When the non-domestic product is less expensive: Is there a domestic product that could be easily substituted (for example domestic pears for non-domestic apples)?

☐ Yes ☐ No

3. Is there a better time of year to solicit bids for this product?

☐ Yes ☐ No

SFAs must provide supporting documentation justifying their use of the exception *prior* to purchasing the non-domestic product. This exception must be signed by an employee of the SFA and all documentation must be kept for 5 years. The Arizona Department of Education (ADE) recommends utilizing an exception to purchase and serve non-domestic products, such as bananas, no more than once within a 3-4 week period.

For additional guidance, refer to Memo SP 38-2017, *Compliance with and Enforcement of the Buy American Provision in the National School Lunch Program*, on ADE's website:
<http://www.azed.gov/hns/memos/>

On April 25, 2024, FNS published the final rule, Child Nutrition Programs: Meal Patterns Consistent With the 2020-2025 Dietary Guidelines for Americans (89 FR 31962, April 25, 2024). Among other provisions, this rule finalizes regulations that strengthen the School Meal Programs' Buy American provision, reference SP 23-2024

SFA Name: _____

SFA Contact: _____

Non-Domestic Product: _____

Hardship(s) experienced in procuring acceptable domestic product (check all that apply):

- ☐ **Financial hardship (attach documentation showing increased cost)**
- ☐ **Limited availability (include documentation from vendors, with specific product names)**

Describe in detail the hardship(s) indicated above:

Describe the efforts taken to find products that meet the Buy American provision:

- ☐ **I understand that this exception only applies to the product identified above and it does not exempt the entire menu from meeting the Buy American provision.**

SFA Contact Signature

Date

The following chart may be used to document exceptions of a product throughout the duration of the year. Verify the exception is needed and valid at the time of each purchase.

ADE recommends utilizing an exception to purchase and serve non-domestic products, such as bananas, no more than once within a 3-4 week period.

Product Name	Date Purchased	Is this exception still valid?	Notes/ Comments