



*Original Signed*

HNS 05-2025

**MEMORANDUM**

---

**To:** School Food Authorities Operating the National School Lunch Program

**From:** Melissa Conner, Senior Deputy Associate Superintendent  
Arizona Department of Education, Health and Nutrition Services Division

**Date:** June 26, 2025

**Subject:** Buy American Accommodation Plan

---

The purpose of this memorandum is to provide guidance on the School Year 2025-26 (SY 2025-26) Buy American accommodation process in 7 CFR 210.21(d)(8) and 7 CFR 220.16(d)(8). The accommodation process provides the Arizona Department of Education (ADE) Health and Nutrition Services (HNS) the ability to approve temporary relief for the school food authorities (SFAs) able to demonstrate that the thresholds for non-domestic food purchases established in 7 CFR 210.21(d)(5)(ii) and 7 CFR 220.16(d)(5)(ii) cannot be met and efforts are being made to meet the requirement. Additionally, approval of the Buy American Accommodation Plan does not exempt SFAs from the 7 CFR 210.21(d)(5)(iii) requirement for documentation and tracking the use of exceptions.

**Buy American Requirement**

SFAs participating in the National School Lunch Program (NSLP) and/or School Breakfast Program (SBP) must follow the Buy American Provision found in program regulations 7 CFR 210.21(d) and 7 CFR 220.16(d), respectively.

The Buy American provision requires SFAs to purchase, to the maximum extent practicable, domestic commodities or products which are defined as agricultural commodities that are produced in the United States (U.S.) and food products that are processed in the U.S. substantially using agricultural commodities produced in the U.S. Substantially using agriculture commodities that are produced in the U.S. means over 51 percent of a food product must consist of agricultural commodities that were grown domestically. Therefore, over 51% of the final processed product (by weight or volume) must consist of agricultural commodities that were grown domestically.

**Tom Horne, Superintendent of Public Instruction**

1535 West Jefferson Street • Phoenix Arizona 85007 • [www.azed.gov](http://www.azed.gov)

**"We are a service organization committed to raising academic outcomes and empowering parents."**

## Buy American Exceptions and Non-Domestic Purchase Thresholds

There are two regulatory exceptions for non-domestic purchases at 7 CFR 210.21(d)(5)(i) and 7 CFR 220.16(d)(1)(i), which are available for SFAs to use to support non-domestic purchases. Exceptions from the Buy American provision are only permitted for the following reasons:

- 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 that the cost of a U.S. product is 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:

- Are there domestic sources for this product?
- 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)?
- Lastly, is there a better time of year to solicit bids for this product?

The final rule updated regulations to allow for items found on the Federal Acquisitions Regulations (FAR) Nonavailable Articles list to be exempt from the documentation requirements; however, these items must still be counted toward the cap on non-domestic purchases. An optional Excel-based [Buy American Exceptions Summary Tool](#) has been released by USDA for tracking and documenting the use of exceptions and non-domestic purchases. This tool assists SFAs in documenting the use of the limited Buy American exceptions and will calculate the percent of total commercial food costs from non-domestic foods. Items that fall under either exception criteria should be documented with the Buy American Exceptions Summary Tool or a similar tracking tool. This tool replaces the previously used Buy American Exceptions Form and provides specific examples of items that meet each exception criteria and how they should be tracked/documented. The Buy American Exceptions Summary Tool is located on the ADE website under National School Lunch Program and School Breakfast Program, within the Program Forms and Resources section.

In addition to the two regulatory exceptions, there are new regulatory limits on purchasing non-domestic foods outlined at 7 CFR 210.21(d)(5)(ii)(A). The first threshold limit for non-domestic food purchases will be implemented beginning in SY 2025-26. Non-domestic food purchases by the SFA cannot exceed the annual threshold, which for SY 2025-26 is 10 percent of total commercial food purchases.

## Buy American Accommodation Process

In SY 2025-26 and using the Food and Nutrition Services (FNS) guidance outlined at [SP 09-2025](#), HNS will offer an accommodation that will temporarily allow the SFA to exceed the 10 percent threshold for non-domestic food purchases. HNS will provide technical assistance to SFAs to support the temporary accommodation consistent with the availability of the two regulatory exceptions for non-domestic purchases, if the SFA demonstrates they are unable to meet the requirement. Temporary accommodation for the threshold requirement is only available for non-domestic purchases that qualify under one or more of the regulatory exceptions outlined above. To receive this temporary accommodation, SFAs must complete a Buy American Accommodation Plan.

Tom Horne, Superintendent of Public Instruction

1535 West Jefferson Street • Phoenix Arizona 85007 • [www.azed.gov](http://www.azed.gov)

**“We are a service organization committed to raising academic outcomes and empowering parents.”**

An online [Buy American Accommodation Plan](#) must be submitted through the ADE website and can be found under National School Lunch Program and School Breakfast Program, within the Program Forms and Resources section.

Within the Buy American Accommodation Plan submitted to HNS, the SFA will be required to provide contact information and indicate the reasons that the accommodation to exceed the 10 percent requirement outlined at 7 CFR 210.21(d)(5)(ii)(A) is needed. Reasonable explanations may include timing of the procurement cycle; student preference/anticipated participation impacts; items that help meet meal standards; items that facilitate meal service models; or any other reason an SFA can thoroughly explain. The SFA will also need to select all categories of food that require accommodation from the 10 percent threshold requirement. In addition, the SFA will need to describe the anticipated timeline to make modifications to meet the Buy American requirement.

### **Resources and Technical Assistance**

In SY 2025-26, HNS will provide ongoing technical assistance and resources based on the USDA requirements and data provided by approved Buy American Accommodation Plans.

For additional guidance, refer to memos SP 38-2017, Compliance with and Enforcement of the Buy American Provision in the National School Lunch Program, and 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.

If you have questions or concerns regarding this memo, please contact your assigned Health and Nutrition Services Specialist or submit a request for service through HelpDesk by using the link: <https://helpdeskexternal.azed.gov/>.

**Tom Horne, Superintendent of Public Instruction**

1535 West Jefferson Street • Phoenix Arizona 85007 • [www.azed.gov](http://www.azed.gov)

**“We are a service organization committed to raising academic outcomes and empowering parents.”**

*In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.*

*Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.) should contact the State or local Agency that administers the program or contact USDA through the Telecommunications Relay Service at 711 (voice and TTY). Additionally, program information may be made available in languages other than English.*

*To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at [How to File a Program Discrimination Complaint](#) and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, SW, Mail Stop 9410, Washington, D.C. 20250-9410; (2) fax: (202) 690-7442; or (3) email: [program.intake@usda.gov](mailto:program.intake@usda.gov).*

*USDA is an equal opportunity provider, employer, and lender.*

**Tom Horne, Superintendent of Public Instruction**

1535 West Jefferson Street • Phoenix Arizona 85007 • [www.azed.gov](http://www.azed.gov)

**“We are a service organization committed to raising academic outcomes and empowering parents.”**