

From: Jungwoo Copper Fittings

Re: Buy America Act and Korean Copper fittings

Date: Feb 24<sup>th</sup> 2014

Jungwoo Metals is a republic of Korea based company with headquarters in Seoul, Korea.

There is special consideration given in the Buy American Act to Canadian products, as well as those from Caribbean Basin countries (Antigua and Barbuda, Aruba, Bahamas, Barbados, Belize, British Virgin Islands, Costa Rica, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, Netherlands Antilles, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, or Trinidad and Tobago). In addition, designated (beneficiary) countries include Free Trade Agreement countries (Australia, Bahrain, Canada, Chile, Dominican Republic, El Salvador, Guatemala, Honduras, Mexico, Morocco, Nicaragua, or Singapore); least developed countries (Afghanistan, Angola, Bangladesh, Benin, Bhutan, Burkina Faso, Burundi, Cambodia, Cape Verde, Central African Republic, Chad, Comoros, Democratic Republic of Congo, Djibouti, East Timor, Equatorial Guinea, Eritrea, Ethiopia, Gambia, Guinea, Guinea-Bissau, Haiti, Kiribati, Laos, Lesotho, Madagascar, Malawi, Maldives, Mali, Mauritania, Mozambique, Nepal, Niger, Rwanda, Samoa, Sao Tome and Principe, Senegal, Sierra Leone, Solomon Islands, Somalia, Tanzania, Togo, Tuvalu, Uganda, Vanuatu, Yemen, or Zambia); and finally, World Trade Organization Government Procurement Agreement signatory countries (Aruba, Austria, Belgium, Bulgaria, Canada, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea (Republic of), Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, or United Kingdom), all of whose products are treated equally with American made goods provided certain requirements are met.

Buy American provisions are applied consistent with international obligations, again lowering the likelihood of spats with our trading partners. As such, only if the size of the contract is less than the WTO GPA floor of \$7.433 million (or comparable FTA provisions as mentioned above) does the Buy American requirement apply.

The Federal Acquisition Regulations contain express exemptions from the Buy America Act for certain eligible goods manufactured in designated countries. In these instances the Buy America provisions have been waived totally, and these products are given equal consideration with domestic offerings of like product.

At the same time copper fittings, or copper fittings used as components or subcomponents of other manufactured construction materials are not subject to Buy American requirements, thereby further lowering the likelihood of trade disputes. Similarly, "manufactured in the U.S." is also not defined, which would seem to allow the substantial transformation test to apply as well to foreign components used to make a finished good in the U.S., which is covered by the Recovery Act. This is in sharp contrast to the 50%+ cost standard requirement originally part of the Buy American Act, and the over 90% requirement for Made in USA as administered by the Federal Trade Commission.

This condition is brought about by the fact that copper is a globally traded commodity, of which only a limited portion is mined and refined in the United States. Because tube used to make fittings may be globally sourced, and that the base copper material itself could be cathode or scrap from virtually any part of the world, application of the 50% plus cost standard has been deemed unreasonable. This is consistent with the lack of application of this rule to steel or iron products as well, where high recycling blurs the line of origin.

Under this interpretation, copper fittings manufactured in the Republic of Korea, are compliant with the Buy American Act in some instances, not governed by the Act in most instances, and may be used in general contracts governed by that Act.

Thanks

Jim Farnen

Jungwoo/Nungwon

Reference:

48 C.F.R.25.402(a)(1)

Korea-US Free trade agreement L 112-41