



U.S. General Services Administration

A photograph of a large, multi-story, light-colored building with many windows, likely a GSA office building. The building is partially obscured by green trees in the foreground. The sky is blue with white clouds. A flagpole with a flag is visible on the right side of the building.

**GSA Industry Partner Training Series**  
**Acquisition Workforce Training Branch**  
**FAS Office of Customer and Stakeholder Engagement**

# Trade Agreements Act

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April 3, 2019

# What is the Trade Agreements Act?

- Time for a history lesson...
- Starts with World Trade Organization (WTO) Government Procurement Agreement (GPA)
  - The GPA opens the business of Government to international competition
  - 40+ WTO members participate - China does not
- Trade Agreements Act (TAA) of 1979 implements US trade initiatives
  - Prohibits federal agencies from purchasing from countries that do not participate in the WTO GPA
  - Waives all other discriminatory procurement laws, including Buy American Act
  - Mandates that federal agencies cannot buy items that came from outside the US or a TAA compliant country

# What Does the TAA Cover?

All of our government's various trade agreements:

- World Trade Organization Government Procurement Agreement countries
  - (The thing from the last slide)
  - Germany, Japan, UK, Taiwan, etc...
- Free Trade Agreement countries
  - Australia, Canada, Mexico, etc...
- Certain Least Developed Countries (LCDs)
  - Afghanistan, Ethiopia, Rwanda, etc...
- The Caribbean Basin countries
  - Aruba, Jamaica, etc...

# Whew...Why Are You Telling Me All of This?

To explain the intent of the Trade Agreements and the TAA; they are intended to establish an environment that:

- Provides for the nondiscriminatory treatment of “eligible products” from “designated countries” who have entered into these Trade Agreements; and
- To procure “only U.S.-made or designated country end products or U.S. or designated country services”

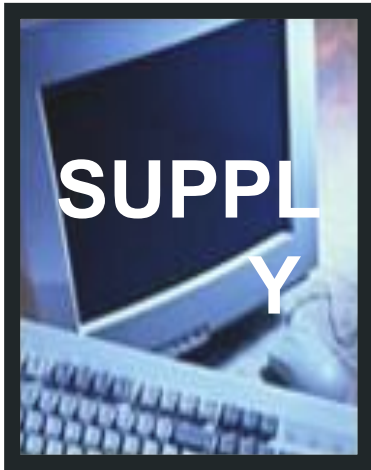


# OK, So What Does the TAA Mean to Me?

- The TAA applies to your contract
  - Applicable to all schedules contracts, including services (very few exceptions)
  - It's clause [FAR 52.225-5](#) along with [FAR 52.225-6](#)
  - You self-certified upon award that you would only provide TAA-compliant items
- You can only provide end products originating from a TAA-authorized country
  - China is not TAA-authorized
  - [FAR 25.003](#) has a complete list of authorized countries



# What is a “TAA Compliant End Product”?



Wholly the growth, product,  
or manufacture of -



U.S. or TAA  
Designated  
Countries

If consists of materials from another  
country, has been substantially  
transformed in -



# What Does “Substantial Transformation” Mean?

- Something that has been turned into a new and different article of commerce
- You are responsible for making the determination of substantial transformation
  - Check with U.S. Customs and Border Protection (CBP) (<https://www.cbp.gov/>) for a determination or request an opinion from a third-party expert
  - Your CO is not responsible for determining substantial transformation, but they can analyze potential TAA situations





# What About Bundled Items?

Inclusion of an item in a kit typically isn't substantial transformation

- Each major component of the kit must be marked separately with its own country of origin
- All major components of the kit must be TAA compliant
- Minor, insignificant items that would have no influence on the purchasing decision may not have to be individually marked
- Request a ruling from CBP on whether items are substantially transformed by their inclusion in a kit

# What are my TAA Responsibilities?

- Only offer TAA-compliant products and services
- Remove non-compliant items from your contract and GSA Advantage
- Be able to track the country of origin of all products
  - For services, the country of origin is where the contractor is headquartered
- Be able to demonstrate substantial transformation on any items/raw materials/etc that originated in a non-TAA country
  - Talk to your Procurement Contracting Officer (PCO) when unsure (locate your PCO contact information in [eLibrary](#))
  - Ultimately, substantial transformation will be a CBP determination

# Is This the Same as the Buy American Act?

## Short answer

- No

## Long answer

- Similar, but separate
- Buy American Act:
  - Mandates preference for domestic products
  - Does NOT apply when TAA applies



# What's the Bottom Line?

Ensure products offered to the Federal Government are TAA compliant

- Country of origin might have changed since your contract was awarded
- If you are a reseller, confirm with the manufacturer, OEM, or wholesaler
- Delete non-compliant items from your contract
  - Update your GSA Advantage information to reflect changes



# What Could Happen?

Your Contracting Officer could potentially:

- Remove non-compliant items from the contract
- Remove non-compliant items from GSA Advantage
- Terminate the contract
- Notify the Inspector General
- Document noncompliance in the contract file and in the Contractor Performance Assessment Reporting System (CPARS)

Hold up - I know for a fact that Bob's Computers has been selling Chinese products for years! They always low-ball me on every quote. Why should I monitor TAA compliance when they obviously don't have to?!

- ALL MAS contractors (even Bob's Computers) are bound by the TAA
- TAA compliance is mandatory, and every contractor has certified they will only supply TAA-compliant products and services
- Potential violations can be reported to PCOs and can be investigated by the appropriate parties

# Ok, How About Some Examples?

- Flashlight fully manufactured in China
- Completed, working flashlights shipped in bulk to your facility
- You test the flashlights, individually package them, and label them for retail sale

## Questions:

1. Did the product originate in a designated end-country?
2. If not, was it substantially transformed into a new and different article of commerce?

# Another Example

- Individual flashlight components all purchased separately from Chinese sources (lens, lamp, body, circuitry, etc)
- Bulk components shipped to your factory, where you put them all together to make a working flashlight
- You test each one, package them individually, and label them for retail sale

## Questions:

1. Did the product originate in a designated end-country?
2. If not, was it substantially transformed into a new and different article of commerce?



# Last One

- Contractor provides call center services, headquartered in Chicago
- Services physically performed in China and India (non-TAA countries)
- Contract administration performed in Chicago

## Questions:

1. Is the contractor (service provider) headquartered in a TAA country?
2. Does it matter where the services are performed?
3. Is the contractor in compliance with the TAA?

Questions?

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