

Buy American

Final USDA Ruling for Hawaii
2017

Background and Progress:

- ◎ Buy American is primarily for the contiguous States. The Buy American for Hawaii is unique which added confusion on how it should be legally applied to Hawaii.
- ◎ Over the past year, Buy American for Hawaii was researched by the USDA National Office and the following is the final ruling.

Buy American Regulation:

SFA's in Hawaii are required to purchase food products produced in Hawaii in sufficient quantities, as determined by the SFA, to meet school meal program.

Limited Exemption is granted if...

1. Product is not produced or manufactured in the US/Hawaii in sufficient and available quantities.
2. Competitive Bids reveal the costs of a Hawaii food are significantly higher.

Attention Areas

Hawaii must use Buy American

Must use Buy
American in all
food solicitations

Only applies for
Hawaii foods,
not U.S. foods.

Make sure you understand

It is **NOW** the SFA's responsibility to document why they can't Buy Hawaii due to cost and/or sufficient quantities.

SFAs must prove that Hawaii goods are significantly more expensive

SFA now must monitor their vendor to ensure vendor is Buying Hawaii Foods.

Buy American Decision Tree

1. Is product produced in Hawaii > 51% Hawaii or grown in Hawaii?



2. Is price significantly higher for Hawaiian Product than elsewhere?



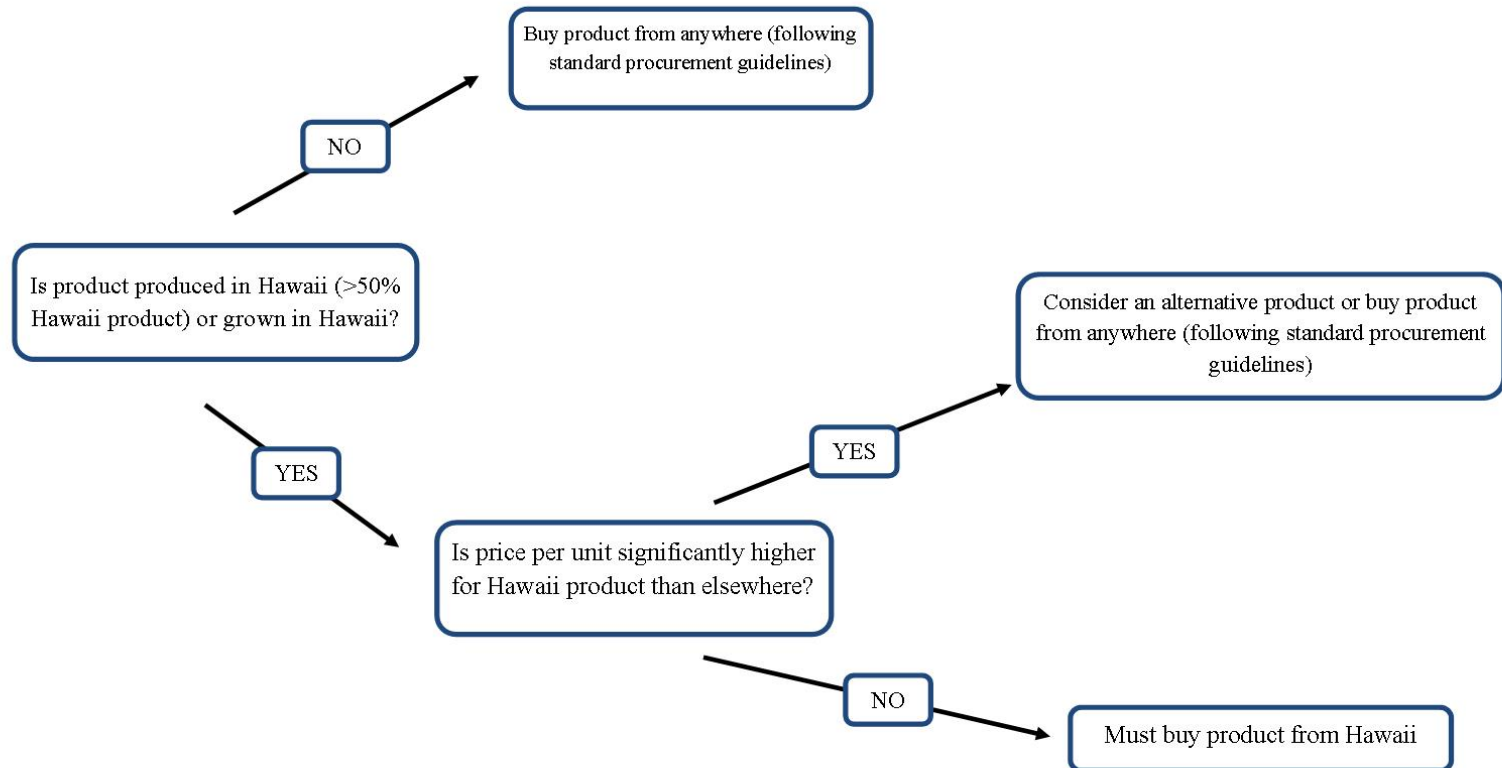
IF NO: must buy Hawaii food



IF YES: consider an alternative product or buy from anywhere

Buy American for Hawaii

Decision Tree



The New Buy American Clause For HI

- 1. BUY AMERICAN: Vendor will comply with the Buy American requirement, which dictates that SFAs participation in the federal school meal programs are required to purchase domestic-Hawaiian commodities and products for SFA meals to the maximum extent practicable. A domestic-Hawaiian commodity or product means an agricultural commodity that is produced in Hawaii and a food product that is processed in Hawaii substantially (at least 51%) using agricultural commodities that are produced in Hawaii (7 CFR 210.21,220.16). SFA's in Hawaii are required to purchase food products produced in Hawaii in sufficient quantities, as determined by the SFA, to meet school meal program needs per 7 CFR 210.21(d)(3).

The New Buy American Clause

Now required to be in all solicitations:

2. _____ participates in the National School Lunch Program and School Breakfast Program and is required to use the nonprofit food service funds, to the maximum extent practicable, to buy domestic-Hawaii commodities or products for Programs meals. A 'domestic-Hawaiian commodity or product' is defined as one that is either produced in Hawaii or is processed in Hawaii substantially using agricultural commodities that are produced in Hawaii as provided in 7 CFR 210.21 (d).

The New Buy American Clause For HI

Now required to be in all solicitations:

3. We (SFA) will require bidders to certify that _____ was processed in Hawaii and contains over _____% of its agricultural food component from Hawaii.

Costs and Sufficient Quantities

● Cost of Hawaii Grown Food:

- Determined by each SFA what is “**too expensive**”.
- Use HCNP’s Buy American Documentation Log annually
- Documentation Log is subject to be reviewed by HCNP

Costs and Sufficient Quantities

◎ Sufficient Quantities

- Is determined by each SFA what “is sufficient”
- No one rule applies
- Does not have to be “all or nothing” on HI products. May buy all of available Hawaii product, then supplement from elsewhere.
- Must have written documentation if not purchased.

Take Aways from Buy American

Must have
Buy
American
clause in all
solicitations
and
contracts

Must buy HI
if cost
effective or
in sufficient
quantities.
Document if
you don't.

Must
monitor
vendor.
Document
everything.

SCHOOL FOOD AUTHORITY: _____

COMPLETED BY: _____ DATE: _____

[illegible]

Effective Immediately

See SP 38- 2017 for
further guidance.

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(1) mail: U.S. Department of Agriculture
Office of the Assistant Secretary for Civil Rights
1400 Independence Avenue, SW
Washington, D.C. 20250-9410;

(2) fax: (202) 690-7442; or

(3) email: program.intake@usda.gov

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