

Buy American and Trade Agreements Acts

Wiley's Government Contracts attorneys regularly help clients in a wide array of industries comply with the complex web of country of origin restrictions that apply to federal procurements, including the Buy American Act (BAA), Trade Agreements Act (TAA), Berry Amendment, restrictions on the use of specialty metals produced outside the United States, and reporting requirements associated with the use of conflict minerals. Our attorneys also have experience advising clients regarding the separate Buy America restrictions that apply to federally-funded transit projects, including projects funded by the Federal Transit Administration (FTA) and Federal Highway administration (FHWA).

Along with our colleagues from the International Trade and National Security practices who have substantial experience with Customs Law and Compliance, we provide clients with a full range of services in connection with BAA, TAA, and other domestic source requirements—including assisting contractors in performing country of origin determinations; requesting formal country of origin determinations from Customs and Border Patrol; and addressing potential non-compliance, including by submitting disclosures of non-compliance and negotiating resolutions with the Government and/or higher tier contractors.

Our representative experience includes:

- Represented leading manufacturer of medical devices in conducting internal investigation into non-compliance with TAA restrictions under U.S. government contract, which required assessing country of origin of affected device under TAA; preparing disclosure to OIG regarding non-compliance; analyzing changes to supply chain/manufacturing process needed to comply with applicable restrictions; and conducting training and developing internal processes to improve ongoing TAA compliance.
- Assisted client, whose products were sold through a GSA Schedule reseller, in responding to GSA request to remove non-TAA products from the GSA Schedule, which required assessing country of origin for a broad portfolio of products and developing a strategy for notifying customer and removing non-compliant products from the Schedule.
- Helped manufacturer defeat *qui tam* suit against GSA Schedule reseller alleging that client's products did not comply with TAA and resulted in submission of false claims.
- Advised firearm manufacturer regarding compliance with BAA restrictions in connection with a major procurement for the acquisition of firearms for use by federal law enforcement personnel, for purposes of assessing need to alter manufacturing processes/location to comply with BAA restrictions.

- Advised aerospace company regarding compliance with BAA restrictions in connection with U.S. government procurement for new aircraft.
- Developed comprehensive policies and procedures for global defense engineering company to help manage and ensure TAA compliance across all of the company's U.S. Government business.
- Assisted pharmaceutical manufacturer in analyzing country of origin of pharmaceutical products, and requested country of origin ruling from Customs and Border Protection (CBP) for purposes of marketing products to U.S. government customers.
- Advised numerous telecommunications providers and suppliers regarding compliance with Buy American restrictions under federal grant programs, and assisted clients in requesting waivers to allow delivery of foreign material based on unavailability of domestic sources.
- Assisted manufacturer of traffic control systems in assessing systems' compliance with Buy America restrictions applicable to federal highway programs.
- Assisted telecommunications provider in developing internal handbook to provide employees with guidance on complying with Buy America restrictions applicable to infrastructure projects funded through FTA.
- Assisted manufacturer of solar panels in assessing compliance with Buy American restrictions for purposes of responding to request for BAA certification from recipients of federal funds.