

→ Buy American

Sheppard Mullin's Government Contracts team is dedicated to advising both U.S. and non-U.S. clients through issues and investigations relating to Country of Origin requirements, most particularly those relating to various "Buy American" requirements that commonly accompany federal, state, and local procurements that use federally-appropriated funds.

Representative Experience

- Represented numerous commercial and non-commercial companies to help them understand and navigate the varying requirements under the Buy American Act (BAA), the Trade Agreements Act (TAA), the Berry Amendment, U.S. Department of Defense Specialty Metals restrictions, and other Country of Origin requirements.
- Represented multiple commercial companies in understanding and complying with the effects of President Trump's "Buy American" Executive Orders issued in 2017 and 2019, including updates to federal procurement regulations.
- Represented several commercial IT resellers accused of defrauding the U.S. Government by misrepresenting the Country of Origin of certain products sold to the government.
- Represented a major manufacturer of commercial laptop computers in assessing efficiency and cost improvements to their manufacturing processes in the U.S. and Mexico, ensuring that certain manufacturing steps continued to be performed in the U.S. in order to meet various Country of Origin requirements.
- Represented a major defense and aerospace company in preparing internal policies and procedures for complying with the BAA and TAA and assisting with the training of company personnel to better understand the various Country of Origin requirements.
- Represented multiple commercial software developers in assessing and classifying the Country of Origin of software products and services under the TAA.
- Represented numerous companies in assessing product labeling requirements for both foreign-made and U.S.-made products, including compliance with U.S. labeling requirements for products "Made in the U.S.A."
- Represented a Chinese manufacturer of photovoltaic devices in connection with an assessment of its U.S.-based manufacturing processes in order to comply with domestic sourcing requirements.
- Trained in-house personnel for a commercial furniture manufacturer regarding compliance with Buy American requirements, component valuation, and internal procedures to be performed prior to issuing Buy American certifications.

Our Government Contracts team also has extensive experience advising both U.S. and non-U.S. clients relating to specialized – and highly restrictive – Country of Origin requirements applicable to federal, state and local programs funded by grants made by the U.S. Department of Transportation. Following is a list of representative matters where our team has advised client on a number of issues deriving from the Buy America requirements:

- Helping a Japanese automaker comply with Federal Transit Administration (FTA) and Federal Highway Administration (FHWA) regulatory requirements, including compliance with Buy America requirements,

component valuation to satisfy Buy America requirements, applicability of certain foreign-content exceptions for “rolling stock,” and understanding obligations under terms and conditions applicable to operators of federally-funded ride-share programs.

- Assisting a world-wide consumer electronics company assess whether its products satisfy mass-transit Buy America requirements, including assessing how the electronic components and sub-components were incorporated into the delivered end-product, evaluating manufacturing and delivery options to satisfy governmental requirements, and assessing Buy America waiver options.
- Investigating whether a major industrial manufacturer satisfied Federal Aviation Administration Buy America requirements, including assessment of the potential impacts from suppliers who failed to provide conforming goods, valuation assessments of domestic content of U.S. components, and whether disclosures to governmental authorities may be required due to false certifications from suppliers.
- Responding to an investigation by the Office of Inspector General for the U.S. Department of Transportation assessing allegations that railcars provided by a German manufacturer failed to satisfy Buy America requirements.
- Counseling a world-wide commercial distributor of Maintenance, Repair and Overhaul (MRO) supplies regarding Buy America certifications to higher-level contractors performing work under federally-funded transportation projects.
- Representing a Japanese automaker helping the company understand and manage compliance with various Buy America requirements under federally-funded transportation projects.
- Assessing whether products manufactured by international steel and pipe manufacturers satisfy federal Buy America requirements, including assessments of the critical manufacturing steps, as well as potential waiver options and exceptions that may apply to the manufactured products.