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Project Paper

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Principles of Acquisition and Contract Management

A current contracting issue is the Buy American Act and later following the Berry Amendment. Its purpose is for the protection of the United States of America and the domestic industry. The restrictions placed were to make sure that specialty metals were protected under national interests for defense related projects. Items included are “procurement to domestically produced, manufactured, or home grown products, most notably food, clothing, fabrics, and specialty metals” found on the website (http://en.wikipedia.org/wiki/Berry_Amendment). The targeted issue is specialty metal that is of concern to the Department of Defense.

Specialty metals are important to our national interest and for the production of major program classifications that are listed under Aircraft, Missile & Space, Systems, Ships, Tank & Automotive, Weapon Systems, and Ammunition (Contract Management December 2008). The issue is defined that the Buy American Act and Berry Amendment is essential to our national defense because it allows for the immediate purchase of specialty metal goods made available in the domestic market. The scope of the argument is for domestic procurement and not from a foreign interest, unless the materials or goods are cheaper (and reasonably advantageous) to the Department of Defense. In a case example, the exception to procure materials from a foreign interest must be granted Under Secretary of Defense for Acquisition, Technology, and Logistics (USD (AT&L)) found under the Defense Federal Acquisition Regulation Supplement (DFARS).

The purpose of procuring specialty metals in the domestic market is to make it immediately available to the Defense contractor or Department of Defense. Our efforts with the military are critical and vital to national security, and of course more restrictive than materials and goods related to foods, clothes, and home grown products. Specialty metals can be classified as goods not made readily available for procuring from foreign governments. The specialty metals, if determined a component of a classified project, would be ill and inadvisable to contract with a foreign government. An argument to support this is keeping confidential developments by the Department of Defense secret, while maintaining the sphere of domestic superiority within the confinements of our borders. A supporting

argument is the speed and efficiency when being delivered by a domestic supplier proving this to be effective.

Counterarguments are developed when the issue is concerned with the quality or quantity of the specialty metal or *plainly unavailable* (rare instances). The Under Secretary of Defense for Acquisition, Technology, and Logistics will be called to assess the issue surrounding the problem, and used to address the solution by doing business with a foreign government. A fact to support this claim is the added value of cost-reduction and quality increase if previous option is inferior, to the Department of Defense with a minute incentive of controlled competition. Another counterargument is if there is a military operation outside of U.S. borders and the immediate necessity of specialty metals is crucial for the completion of the “contingency operation” or mission. For example, a foreign government may be contacted by one of our Contracting Officers for repairs or construction for one of the major program classifications within the scope of authority in foreign territory.

A requirement within the specialty metals decision tree is that “the component must comply unless it is determined that the overall weight of the specialty metals as a whole is less than or equal to two percent of the total weight of the product.” If the specialty metal exceeds the calculated weight the component must undergo inspection. This is used to enforce the policy that guards the domestic usage of specialty metals in commercial components when it exceeds a certain percentage (two percent or greater). An analysis of this particular statute is to be effective when controlling a commercial product determined to be raised in value. A product or project with the added value of specialty metal is under the confinements of Federal Law and subjugated to a special requirement briefly mentioned in Class Deviation 2008-00002. Once there is a finding of industry or market value, it is in their interest to protect the content of the product or project for the benefit of the Department of Defense. My opinion for this requirement found in Class Deviation 2008-00002 is that it has a capitalistic nature, as if the DoD is enforcing strict procurement of specialty metals from sources within U.S. soil.

I believe my stance is to maintain the current level of restrictions that are written in the Buy American Act and the Berry Amendment. I do not find any supporting argument to enhance the level that is currently in place, unless the quality and cost of the material from an analysis is obviously superior to that found in the domestic market. I have less concern about cost versus quantity because the primary need of the Department of Defense is to build more superior and capable products than the rest of the world with cost being *not as important*; the reduction of quality restriction will only be lessened if the materials procured is not of vital national concern such as basic commodities. Politically, I think it is determined by all parties to agree with the Buy American Act and the Berry Amendment to its maximum extent that is reachable under the governing authority of the Department of Defense and the U.S. Congress.