

A request for waiver must include: data about other suppliers, how their products differ, and examples of other agencies that have made similar favorable determinations. You may want to retain a lawyer with experience in procurement to ensure that the waiver request contains necessary information and makes the strongest possible case for you. Agency staff analyze the market to decide whether a waiver is justified; obtaining a waiver may take as long as six months.

Unfortunately, even if a waiver is granted, it may be temporary. Markets change, and competitors or agency staff may call attention to new sources of American supply for the products in question. The agency may then reconsider the waiver and possibly rescind it if new conditions warrant doing so. If a waiver is granted and later rescinded, the Canadian firm may still ask the prime contractor to apply for a waiver on a one-project-at-a-time basis.

DOD EVALUATION PROCEDURES FOR OFFERS OF FOREIGN-MADE PRODUCTS

The Department of Defense (DoD) uses its own procedures to evaluate offers for American and Canadian products. These procedures are outlined in the Defense Federal Acquisition Regulation Supplement (DFARS) 225.105-70. Briefly stated, the DoD evaluates products originating in any "qualifying country" as equal to American. Qualifying countries are listed in DFARS 225.7403. Since Canada is considered a "qualifying country" under this section, DoD would evaluate a Canadian offer as equal to American.

Offers for products originating in "non-qualifying countries" must be offered for at least 50 percent *less* than a qualifying country product to be eligible for award. DFARS 225.105 - 70 provides several examples illustrating how offers for domestic products, qualifying products, and nonqualifying products shall be evaluated relative to each other. To gain a better understanding of BAA requirements and how they apply to Canadian firms, see Part 25 of the FAR and Part 225 of the DFARS.

The following sections deal with other requirements about which Canadian firms should be aware.