

FAR 25.406 identifies the U.S. agencies that are eligible to buy Canadian products over US\$25,000 without restriction. A few U.S. agencies are not included in the trade agreement with Canada. These include the United States Postal Service, the Department of the Interior, Bureau of Reclamation and the Federal Power Authorities. Consequently, all Canadian products purchased by these agencies are subject to BAA restrictions. Even these agencies, however, may make an exception to the BAA when they determine that:

- the equipment will be used outside the United States,
- the equipment will be resold in a military commissary,
- the cost of buying U.S. products is unreasonable,
- domestic preference would be inconsistent with the public interest, or
- the agency has determined that the required products are not readily available from domestic manufacturers.

If an agency wants to make an exception to the BAA and purchase products that are not made in the United States, to be eligible for award the price of the foreign-made products must be:

- at least six percent lower than the lowest offer from a large U.S. business;
- between six and 12 percent lower on contracts above US\$100,000; or
- at least 12 percent lower than the lowest offer from a domestic small business or labor surplus area business.

Goods supplied as part of a services contract are exempt from the BAA, as long as the value of goods is less than 50 percent of the total value of the contract. Over 50 percent, the agency treats goods-within-service-contracts the same way as a regular purchase of goods, and applies the BAA provisions accordingly.

Prospective contractors who have questions about how an agency evaluated their offer in accordance with BAA restrictions should first seek clarification and resolution from the contracting officer. There after, it may be appropriate to seek written clarification. To discuss strategies and for assistance with any problem that