

§ 1786.208

(2) In the case of a loan advanced under an agreement that permits the refinancing or prepayment of the loan advance based on the payment of 1 year of interest on the outstanding principal balance of the loan advance, a borrower may, in lieu of the premium required by paragraph (a)(1) of this section, pay a premium as provided by:

(i) Paragraph (a)(2) of this section, if the loan advance has reached the 12-year maturity required under the loan agreement for the refinancing or prepayment; or

(ii) Paragraph (a)(3) of this section, if the loan advance has not reached the 12-year maturity required under the loan agreement for the refinancing or prepayment.

§ 1786.208 Increased principal.

A borrower can meet the premium requirements by increasing the outstanding principal balance of the loan advance that is being refinanced. If it does so the borrower shall make a payment at the time of the refinancing equal to 2.5 percent of the amount of the premium that is added to the outstanding principal balance of the loan.

§ 1786.209 Outstanding loan documents.

(a) Except as expressly provided in this subpart, the borrower shall comply with all provisions of its RUS loan contract, its outstanding notes issued to RUS, and the RUS mortgage.

(b) Nothing in this subpart shall affect any rights of supplemental lenders under the RUS mortgage or the rights of any other creditors of the borrower.

(c) Nothing in this subpart shall prohibit a borrower from making prepayments on any loans pursuant to the RE Act in accordance with the terms thereof or as may be otherwise permitted by law.

§ 1786.210 Approvals.

The borrower shall be responsible for obtaining all approvals necessary to consummate the transaction as required by the refinancing note, including such approvals as may be required by regulatory bodies and other lenders.

7 CFR Ch. XVII (1-1-21 Edition)

PART 1787—THE “BUY AMERICAN” REQUIREMENT

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APPENDIX A TO PART 1787—PRODUCT PROCUREMENT

AUTHORITY: 7 U.S.C. 903.

SOURCE: 83 FR 60730, Nov. 27, 2018, unless otherwise noted.

§ 1787.1 General.

(a) The “Buy American” provision of the Rural Electrification Act of 1936 (RE Act) requires, to the extent practicable and the cost of which is not unreasonable, that RUS Borrowers use loan funds only for such manufactured articles, materials, and supplies as have been manufactured in the United States or in any eligible country, substantially all from articles, materials, or supplies mined, produced or manufactured, as the case may be, in the United States or any eligible country.

(b) Each RUS Borrower is responsible for assuring that its use of loan funds complies with this requirement, and that the contracts it enters into for construction, materials and equipment, and purchases with vendors contain the Buy American requirement, along with certification as to compliance, made through RUS Form 213.

§ 1787.2 Definitions.

For purpose of this part, the following terms have the following meanings:

Administrator. The Administrator of the RUS, or his/her designee.

Buy American. A provision of the RE Act requiring that loan funds only be used to purchase products made in the U.S. or an eligible country.

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Component. Any article, material, or supply, whether manufactured or unmanufactured, that is directly incorporated into the end product at the final assembly location.

Domestic product. A product or like product which both:

(1) Is manufactured in the United States or in any eligible country; and

(2) Contains components manufactured in the United States or in any eligible country consisting of more than 50 percent of the total cost of all components used in the product.

Eligible country. Any country that the United States Trade Representative determines as having corporations located therein, as eligible to enter into contract with an RUS Borrower, under which loan funds will be provided for unmanufactured and manufactured goods.

Loan funds. Funds provided under an RUS direct or guaranteed loan.

Manufactured. The application of processes to alter the form or function of materials or of elements of the product such that value is added or the materials or elements are transformed into a new end product functionally different from that which would result from mere assembly of the materials or elements.

Nondomestic bid. An offer to sell a nondomestic product to an RUS borrower.

Nondomestic product. Any product other than a domestic product or product from an eligible country.

Product. An item of manufactured material or assembled components, which is complete and capable of performing an intended practical purpose.

RE Act. Rural Electrification Act of 1936, as amended (7 U.S.C. 901 *et seq.*).

RUS. The Rural Utilities Service.

RUS Borrower. Any organization that has an outstanding RUS loan made or guaranteed by RUS pursuant to the RE Act.

Telecommunications. Any communication service for the transmission or reception of voice, data, sounds, signals, pictures, writings, or signs of all kinds, by wire, fiber, radio, light, or other visual or electromagnetic means, including all telephone lines, facilities, or systems used in the rendition of such service; but shall not be deemed to

mean message telegram service or community antenna television system services or broadcasting facilities other than those intended exclusively for educational purposes, or radio broadcasting services or facilities within the meaning of section 3(o) of the Communications Act of 1934, as amended.

Unmanufactured. With respect to articles, materials, or supplies, refers to such goods that have not been manufactured.

§ 1787.3 Products constituting a portion of a purchase order or contract.

Where a supplier or contractor offers or furnishes several products under a purchase order or contract, the provisions of this part apply to each product individually.

§ 1787.4 Unmanufactured articles, materials, and supplies.

The Buy American requirement also applies to unmanufactured articles, materials, and supplies to be financed with RUS loan funds, and will be considered domestic if mined or produced in the United States or in an eligible country.

§ 1787.5 Eligible countries.

The United State Trade Representative (USTR) determines what countries are eligible countries with respect to purchases made by electric borrowers or telecommunications borrowers. A particular country may be determined to be an eligible country for purchases made by telecommunications borrowers, for electric borrowers, or both. RUS maintains the latest FEDERAL REGISTER notice on its website which sets out the list of Eligible Countries for each RUS program at https://www.rd.usda.gov/files/UEP_Engineering_EligibleCountries.pdf.

§ 1787.6 Nondomestic products.

A product is considered to be nondomestic for the purpose of compliance with the “Buy American” requirement if:

(a) The product is manufactured outside the United States or any eligible country; or