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AMERICAN RECOVERY and REINVESTMENT ACT (ARRA) and BUY AMERICAN ACT (BAA)

Substantial Transformation

Questions for Determining Whether Substantial Transformation has Occurred in the U.S.

EPA (Environmental Protection Agency) has developed several questions for assistance recipients to ask when determining whether substantial transformation has occurred in the U.S. As EPA entered the work of ARRA (American Recovery & Reinvestment Act) implementation without current experience in the Office of Water with Buy American programs, these questions were derived directly from numerous Federal court cases, Customs Department administrative rulings, and interpretive rules for U.S. trade agreements. In applying these questions to individual cases, "yes" answers must in all cases be documented by meaningful, informative, and specific technical descriptions of the activities in the actual process asked about in each question. These descriptions need not be of great length, but must be sufficiently detailed and clearly written to inform assistance recipients and agency reviewers about the activities that have occurred in the process(es), enough to understand their nature and purpose. They should not simply assert a conclusion, describe an end state, or essentially repeat the words of the question as a statement. Simple "yes" answers are always entirely insufficient to make a case that an item has been substantially transformed in the U.S. These questions all focus on processing work on and assembly/integration of the components into a finished good. Design, planning, procurement, component production, or any other step prior to the process of physically working on and bringing together the components into the item used in and incorporated into the project cannot constitute or be a part of substantial transformation.

The following questions are intended to serve as a guide to determine whether a manufactured good to be incorporated into a project being built with ARRA funds was manufactured in America. Substantial Transformation has occurred in the U.S. if the answer is yes to either of the following questions – Questions 1, 2, or 3. If the answer to Question 1 is YES, then this is clearly manufactured in the U.S., and the inquiry is complete. If the answer is YES for any of 2a, 2b, or 2c, then the answer to question 2 is YES. If the answer is YES for at least two of 3a, 3b, 3c, 3d, or 3e, then the answer to Question 3 is YES.

Q#.	QUESTIONS/ANSWERS	YES	NO
1.	<ul style="list-style-type: none"> Were all of the components of the manufactured good manufactured in the United States, and were all the components assembled into the final product in the U.S.? (If the answer is yes, then this is clearly manufactured in the U.S., and the inquiry is complete) No-While a substantial amount of our product mechanisms are created and assembled here in our U.S. facility, there are components in our products that are sourced offshore. 		X
2.	<ul style="list-style-type: none"> Was there a change in character or use of the good or the components in America? (These questions are asked about the finished good as a whole, not about each individual component) No 		X
2a.	<ul style="list-style-type: none"> Was there a change in the physical and/or chemical properties or characteristics designed to alter the functionality of the good? No 		X
2b.	<ul style="list-style-type: none"> Did the manufacturing or processing operation result in a change of a product(s) with one use into a product with a different use? 		X

	<ul style="list-style-type: none"> No 		
2c.	<ul style="list-style-type: none"> Did the manufacturing or processing operation result in the narrowing of the range of possible uses of a multi-use product? No 		X
3.	<ul style="list-style-type: none"> Was/Were the process(es) performed in the U.S. (including but not limited to assembly) complex and meaningful? Yes- The majority of the product innovation, machining of components, and highly skilled labor intensive assembling processes are done in our U.S. facility. The circuit boards in our products are programmed/custom programmed in our U.S. facility. The motor gear mechanisms and spring mechanisms are all individually assembled, pass through quality control procedures, integrated into the finished product, individually water tested, and individually packaged in our U.S. facility. The majority of our product packaging is made in the U.S.A. 	X	
3a.	<ul style="list-style-type: none"> Did the process(es) take a substantial amount of time? Yes- In order to provide finished product, a substantial amount of time and high level skills are required in machining components, assembling components and mechanisms, water testing product, final assembly, and packaging product. 	X	
3b.	<ul style="list-style-type: none"> Was/Were the process(es) costly? Yes- The combination of highly skilled labor for product innovation and component engineering and complex assembly as well as less skilled labor for final product assembling, testing, and packaging is costly. 	X	
3c.	<ul style="list-style-type: none"> Did the process(es) require particularly high-level skills? Yes- Product innovation and component engineering requires highly skilled labor. Also, some assembling processes require high level skills. 	X	
3d.	<ul style="list-style-type: none"> Did the process(es) require a number of different operations? Yes- In order to provide finished product, a substantial amount of time and labor is required in machining components, assembling components and mechanisms, water testing product, final assembly, and packaging product. 	X	
3e.	<ul style="list-style-type: none"> Was substantial value added in the process(es)? Yes- The processes for engineering components, mechanism assemblies, and water testing fully assembled product add substantial value to our products. Quality control processes are followed from beginning to end to assure that components are transformed into valuable and highly useful finished goods. 	X	

If you have any questions about the BUY AMERICAN ACT and “Substantial Transformation” please contact AMTC at 800-874-7822.