



COMPTROLLER GENERAL OF THE UNITED STATES  
WASHINGTON, D.C. 20543

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H-175526

May 23, 1973

The Jamar Corporation  
643 South Eighty-Three  
Elmhurst, Illinois 60126

Attention: Mr. Jerry J. Marchese  
President

Gentlemen:

This will acknowledge receipt of your letters dated April 24, 1973, in which you request that we reconsider our decision of July 5, 1972, 52 Comp. Gen. 13, and allege that foreign-manufactured softballs were supplied the Government in violation of the terms of IFB 2PA-IR-E-04114, issued by the General Services Administration (GSA).

In the above-cited decision, we conclude that the sewing in Haiti of domestically-made softballs covers around domestically-made cores constituted a "manufacture" of the softballs in Haiti, precluding their qualification as "U.S. End Products" as defined in, and required by, the solicitation. You contend that this conclusion is erroneous, for in your opinion:

\* \* \* to define the word "manufactured" would be to say that the entire operation was performed in a certain place. Ninety-six percent of our operation is performed in the United States, utilizing U.S. labor and U.S. components, while only 4% is actually performed outside the United States, utilizing foreign labor but with 100% U.S. components.  
(Emphasis in original.)

The applicable "U.S. PRODUCTS AND SERVICES (Balance of Payments Program)" clause requires the contractor to deliver "U.S. End Products," i.e., "An end product manufactured in the United States, if the cost of the components thereof which are mined, produced or manufactured in the United States exceeds 50 percent of the cost of all its components." "Components" are those articles, materials, and supplies which are directly incorporated in the end products.

Request for reconsideration

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The comparative costs of foreign and domestic manufacturing operations become relevant only when such costs are properly for inclusion in the cost of the components, and in such circumstances it must first be concluded that the end product was domestically "manufactured." The requirement for domestic manufacture of the end product, in those situations where the end product is manufactured from components, concerns only the unification (manufacture) of those components into the end product which is being acquired under the contract for public use. In your situation the manufacture of the end product was from components and comprised the sewing of the covers around the cores (both of which were components) to form the softballs which were being acquired for public use (end products). Thus, the performance abroad of the sewing operation, even though at relatively small cost, was violative of the solicitation provisions requiring the end products to be manufactured in the United States. Accordingly, our decision of July 5, 1972, is affirmed.

The determination whether goods offered by a contractor conform to the "Buy American" contract provisions is properly the responsibility of the contracting agency in the first instance. Accordingly, we have referred your allegations concerning IFB 2PM-IR-S-04114 to GSA for appropriate action by that agency.

Sincerely yours,

Paul G. Danblin

For the Comptroller General  
of the United States