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DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

FILE: B-221211**DATE:** December 12, 1985**MATTER OF:** Auchter Industries**DIGEST:**

The Buy American Act and the Department of Defense Balance of Payments Program do not apply to the purchase of supplies that are for use outside the United States where the cost is not estimated to exceed \$25,000.

Auchter Industries protests the award of purchase order No. DAJA02-85-M-8123 to Jakob Helfrich by the Department of the Army for carpet tiles. The carpet tiles were purchased outside the United States for use in West Germany. Auchter contends that Helfrich will deliver foreign supplies in contravention of the requirements of the Buy American Act, 41 U.S.C. §§ 10a-d (1982).

By its terms, the Buy American Act does not apply to supplies "for use outside the United States." 41 U.S.C. § 10a. However, the Department of Defense (DOD), as a matter of policy to implement its Balance of Payments Program, has extended the Buy American Act preferences and procedures to contracts for supplies that are for use outside the United States. See Department of Defense Federal Acquisition Regulation Supplement (DOD FAR SUPP), 48 C.F.R. § 225.102 (S-70)(1) (1984). Nevertheless, under DOD's policy, the Buy American Act preferences and procedures are not applicable to purchases of foreign supplies which are estimated not to exceed \$25,000. See DOD FAR SUPP, 48 C.F.R. § 225.302(a)(S-72)(1)(ii). Here, the record shows that an Army unit in West Germany is purchasing these supplies in West Germany for use outside the United States for approximately \$19,000. Therefore, the Buy American Act preferences and procedures are not applicable to the purchase.

The protest is dismissed. 4 C.F.R. § 21.3(f) (1985).

Ronald Berger

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