

**APPENDIX AH**  
**TEMPLATE FOR DETERMINATION AND FINDINGS (D&F) FOR UNREASONABLE**  
**COST EXCEPTIONS TO THE MAKE PPE IN AMERICA ACT**

**INDIVIDUAL OR CLASS DETERMINATION FOR AN EXCEPTION TO THE**  
**MAKE PPE IN AMERICA ACT BASED UPON UNREASONABLE COST OF**  
**[INSERT ITEM(S)]**

Upon the basis of the following determination and findings (D&F), the cost(s) of [insert item(s)] is determined unreasonable for the purposes of the Make PPE in America Act (Pub. L. 117-58).

- a. **Identification of Agency and Contracting Activity.** Identify the agency, contracting activity, and program office. (Example: The Department of Homeland Security (DHS), Office of Procurement Operations, Science and Technology Directorate is requesting approval for an unreasonable cost exception to the Make PPE in America Act.)
- b. **Nature and/or Description of Action being Approved.** Identify and describe the item being procured. This section shall include all the following information:

Description of item being acquired including –

- relevant salient characteristics and rationale for each, i.e., document the impact to mission should an item be acquired that does not meet each of the salient characteristics;
  - needs of public health emergency the item(s) are intended to meet or prevent;
  - anticipated mission impact if there is no waiver;
  - country(ies) of origin of identified acceptable items; and
  - estimated value of procurement(s).
- **Note:** For determinations on a class basis, (i) identify the number of procurements or orders expected to be covered under the determination, and (ii) identify the duration of the proposed waiver (not to exceed 120 days) and the impact to operations if the requested duration is not approved.

- c. **Citation of the appropriate Statute and/or Regulation upon which this D&F is based.**

The statute and regulation upon which this D&F is based is the Make PPE in America Act (Pub. L. 117-58) dated November 15, 2021, as implemented by Homeland Security Acquisition Regulation (HSAR) Class Deviation 23-01 Implementation of the Make PPE in America Act, and supplemented by Homeland Security Acquisition Manual (HSAM) 3025.71.

**FINDINGS**

- d. **Findings of Particular Circumstances, Facts or Reasoning that Support the Determination.** This section should include all the following information:

Offer	Size Status (Small/Large)	Product Type (Domestic PPE, Foreign-made Domestic PPE, BAA Compliant PPE (i.e., domestic end product), TAA Compliant PPE (i.e., designated country)*	Proposed Price

\* See FAR 25.003 and HSAM 3025.7101 for definitions of terms.

**DETERMINATION:**

**e. Determination, based on the Findings, that the Proposed Action is Justified under the Applicable Statute or Regulation.**

Based on the findings detailed above, the price of a domestic or foreign-made domestic [insert item(s)] would result in an unreasonable cost to the Government based on review of market pricing. Therefore, it is hereby determined, consistent with HSAR Class Deviation 23-01 Implementation of the Make PPE in America Act and HSAM 3025.7102-2(d)(2), that the cost(s) of the domestic, or foreign-made domestic item(s) is unreasonable.

**EXPIRATION DATE** (for class determinations only):

The expiration date of this D&F is [insert date or timeframe] from the date of approval by the DHS Chief Procurement Officer (CPO).

- **Note:** For class determinations (not to exceed 120 days), the following statement shall be included in this section.

“Approval of this class determination is limited to 120 days. Should a waiver be needed beyond the 120-day limitation, the [insert contracting activity and program office] shall validate that market conditions remain unchanged (e.g., open and continuous Request for Information) to confirm the continued unreasonable cost of the item(s) covered by this D&F. The [insert contracting activity] shall then request approval by the Office of the Chief Procurement Officer for additional 120 days. This process shall continue in 120-day increments until a waiver is no longer required.”

**SUBMITTED BY:**

Signature: \_\_\_\_\_  
Name  
Requiring Office  
DHS Component and Organization

Date: \_\_\_\_\_

**REVIEWED BY:**

Signature: \_\_\_\_\_  
Name  
Contracting Officer  
DHS Component and Organization

Date: \_\_\_\_\_

**CONCURRED BY:**

Pursuant to the requirements of the Make PPE in America Act, as implemented in HSAR Class Deviation 23-01, an exception to this authority under [HSAR 3025.7102-2(a) or HSAR 3025.7102-2(b)] is justified by the above supporting information and accurately forms the basis for this exception. Accordingly, I concur with this determination.

Signature: \_\_\_\_\_  
Name  
Head of the Contracting Activity  
DHS Component

Date: \_\_\_\_\_

**APPROVED BY:**

Pursuant to the requirements of the Make PPE in America Act, as implemented in HSAR Class Deviation 23-01, an exception to this authority under [HSAR 3025.7102-2(a) or HSAR 3025.7102-2(b)] is justified by the above supporting information and accurately forms the basis for this exception. Accordingly, I approve this determination

Signature: \_\_\_\_\_  
Paul Courtney  
Chief Procurement Officer  
Department of Homeland Security

Date: \_\_\_\_\_