



Buy America, Transportation Infrastructure, and American Manufacturing

Congress over the years has passed several domestic content laws that aim to protect American manufacturing and manufacturing jobs. One is known as the Buy America Act, or more simply, Buy America. Statements by the Trump Administration about reinvigorating domestic manufacturing and reinvesting in infrastructure have stimulated renewed interest in Buy America.

What Is Buy America?

Buy America refers to several statutes and regulations that apply to federal funds used to support projects carried out by state and local government, mainly involving highways, public transportation, aviation, and intercity passenger rail, including Amtrak. Buy America also applies to certain federally funded water infrastructure projects. Buy America in transportation dates to the Surface Transportation Assistance Act of 1978 (STAA; P.L. 95-599), and is different from requirements under the Buy American Act of 1933, which applies to direct purchases by the federal government.

Unless a nationwide or project-specific waiver is granted, Buy America generally requires the use of U.S.-made iron and steel and the domestic production and assembly of certain other manufactured goods. One of the main manufacturing industries this affects is rolling stock, which includes intercity passenger rail trains, public transportation rail cars and buses, and associated equipment.

Buy America requirements differ in law and regulation according to the specific federal funding program and administering agency (**Table 1**). For example, for a public transportation bus or rail car purchase using federal funds to be Buy America compliant, the law requires domestic manufacture of 60% of its components, by value, and final assembly in the United States. For Amtrak rolling stock the threshold, set in regulation, is 50%.

The Fixing America’s Surface Transportation (FAST) Act (P.L. 114-94) increased the threshold for public transportation rolling stock to 65% for FY2018 and FY2019 and to 70% for FY2020 onward. For federally funded airport facility or equipment projects, the threshold for the value of domestic components and subcomponents is 60%. If a state or local government does not use federal funds on a project, the project is not subject to Buy America. Some states may have laws imposing similar requirements on state-funded purchases.

Issues

Trade Agreements

The United States is a signatory to international agreements that restrict discrimination against trading partners in government procurement. However, procurement by state

and local governments is not covered by these agreements, even if federal funds are involved, unless the states or localities voluntarily agree to comply. Thus, where the federal government provides grants or loans to state and local authorities for transportation projects, it may attach Buy America sourcing restrictions to these funds without violating international obligations. The exclusion of subnational procurement from trade agreements has caused considerable tension with major U.S. trading partners.

Table 1. Buy America Requirements for Transportation Projects

Agency	Domestic Content
Federal Transit Administration (FTA): 49 U.S.C. §5323(j); 49 C.F.R. Part 661	100% U.S.-made requirement for iron, steel, and manufactured goods. Buy America does not apply to rolling stock if more than 60% of components, by value, are produced domestically and final assembly is in the United States. Threshold rises to 65% for FY2018 and FY2019 and 70% for FY2020 onward.
Federal Highway Administration (FHWA): 23 U.S.C. §313; 23 C.F.R. §635.410	100% U.S.-made requirement for iron, steel, and manufactured goods made predominantly of steel and iron.
Federal Railroad Administration (FRA): 49 U.S.C. Chapters 244, 246; §24405	100% U.S.-made requirement for iron, steel, and manufactured goods.
Amtrak (National Railroad Passenger Corporation): 49 U.S.C. §24305	All manufactured and unmanufactured goods must be substantially domestic; manufactured products must have undergone final assembly in the United States and have 50% or more domestic components by value.
Federal Aviation Administration (FAA): 49 U.S.C. §50101	All steel and manufactured goods must be produced in the United States. Preference does not apply if more than 60%, by value, of all components and subcomponents of the facility or equipment are produced domestically and final assembly is in the United States.

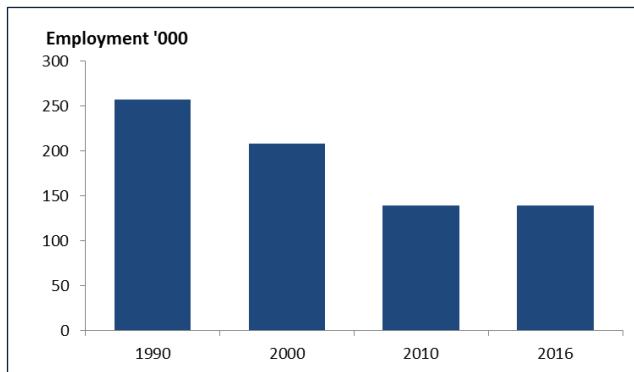
Source: CRS, adapted from U.S. Department of Transportation, “Buy America Provisions Side-by-Side.”

Effects on Manufacturing and Jobs

Assessing the economic effects of Buy America on the steel industry and manufacturing of rolling stock is difficult due to the lack of relevant data. It is unclear how much iron and steel are used in transportation projects that have federal funding; hence, data are not available to calculate how much steel is produced and sold domestically as a direct result of Buy America. Nevertheless, the available data suggest that steel for the Buy America market represents a small portion of total domestic demand for steel.

Even though a key rationale for Buy America is its positive effects on manufacturing jobs, the overall effect on iron and steel manufacturing jobs is likely to be negligible. Domestic preference laws, a top policy priority for the steel industry, have done little to stem the drop in direct employment in steel manufacturing, which has declined from almost 260,000 jobs in 1990 to about 140,000 in 2016, due largely to higher productivity (**Figure 1**). CRS estimates that a 1% increase in U.S. steel production would lead to an increase of 700 to 900 jobs.

Figure 1. Steel Manufacturing Employment



Source: Bureau of Labor Statistics, Current Employment Statistics.

Buy America has likely promoted some additional production of rail cars and buses in the United States, but these industries are relatively small, and demand is related strongly to the combined level of federal, state, and local government funding. Railroad rolling stock manufacturing directly employed more than 30,000 workers in 2015, making up 0.2% of total factory employment. Much of this workforce is not affected by Buy America requirements since some of this equipment is not publicly funded, such as freight locomotive and freight rail cars.

Because Buy America requires affected agencies to procure U.S.-made steel and manufactured goods even when they cost more than competing imports, it may reduce the quantity of goods that can be purchased for a given expenditure. This limits any positive effects on manufacturing employment and may adversely affect employment in related industries, such as construction and engineering.

Effects on Transportation Infrastructure

Buy America could increase the cost and completion time of at least some transportation projects, and may result in fewer projects being undertaken. Evidence of these effects, however, is largely anecdotal. Other direct costs associated with Buy America are mainly related to administering and enforcing its requirements, costs that are mostly absorbed

by state and local government project sponsors. These costs include the effort required by contractors to document the national origin of iron, steel, and manufactured products and agency administration of the certification process.

Waiver requests, another cost, may be prepared by the state or local government project sponsor alone or in cooperation with the contractor. Delays can arise from domestic supply problems and the waiver application process.

Policy Options

Tightening Buy America Restrictions

Congress could modify Buy America by making it more restrictive. For example, bills have been proposed requiring domestic steel used in transportation projects to be made from iron ore and taconite mined or processed in the United States. Other bills have sought to increase to 100% the share of public transit rolling stock components and subcomponents that must be produced in the United States.

Loosening Buy America Restrictions

There have been no recent legislative proposals to reduce the types of purchases to which Buy America requirements apply. In 2015, Congress did raise the threshold for purchases in public transportation subject to Buy America requirements from \$100,000 to \$150,000. Proposals to change the threshold of Amtrak purchases subject to Buy America to \$5 million or more, as opposed to the existing threshold of \$1 million, have not been enacted.

Standardizing Buy America Restrictions

The current Buy America law and regulations establish significantly different requirements for the several Department of Transportation (DOT) subagencies and Amtrak. Standardizing Buy America requirements and possibly having a single office within DOT to enforce them might address this concern.

Broadening Buy America Coverage

At present, Buy America requirements do not extend to oil, natural gas, and hazardous liquid pipelines, as these are generally built and owned by private corporations. Congress is considering a bill that would extend Buy America requirements to gas and hazardous liquid pipelines regulated by DOT's Pipeline and Hazardous Materials Safety Administration. The bill would require, as a new safety standard, that the construction or replacement of regulated pipelines use only steel produced in the United States. Domestic preference laws could also be extended to other sectors, including clean energy manufacturing, if there is some federal involvement.

CRS Products

CRS Report R43354, *Domestic Content Restrictions: The Buy American Act and Complementary Provisions of Federal Law*, by Kate M. Manuel et al.

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