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Buy America and the Department of Transportation: In Brief

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Contents

Introduction 1
Build America, Buy America Act 1
    Buy America Waivers 2
Buy America Requirements in Transportation 3
Other Transportation-Related Domestic Preferences 5
Issues for Congress 6
    Effects of Buy America on Manufacturing Industry and Employment 7
    Effects of Buy America on Transportation Infrastructure 8
        Project Benefits and Costs 8
        Project Delivery 9
Policy Options and Proposed Legislation in the 119th Congress 10

Tables

Table 1. DOT Administrations' Buy America Laws and Regulations 4

Contacts

Author Information 12

Introduction

Congress over the years has passed several domestic content laws that aim to protect American manufacturing and manufacturing jobs. Starting in 1978, Congress placed domestic content restrictions on federally funded transportation projects carried out by state and local governments.[1] These restrictions are commonly referred to as the Buy America Act, or more simply, Buy America; they differ from requirements under the Buy American Act of 1933, which governs purchases made directly by the federal government.[2] Buy America generally required that iron, steel, and manufactured products used in transportation projects be produced in the United States. In the 2010s, Congress passed certain Buy America requirements on federally supported drinking water and wastewater infrastructure projects.[3]

In 2021, Congress passed the Build America, Buy America Act (BABA) as Title IX, Subtitle A, of the Infrastructure Investment and Jobs Act (IIJA; P.L. 117-58). BABA expanded Buy America requirements to all federally assisted infrastructure projects, beyond those in the transportation and water sectors. BABA also expanded the domestic preference requirements for iron, steel, and manufacturing products to include other construction materials.[4] Some of these changes affected Buy America requirements for federally assisted transportation projects.

This report discusses changes to Buy America requirements resulting from BABA, Buy America as it applies to transportation projects, as well as other domestic content restrictions that apply to transportation. The report also discusses the effects of Buy America on manufacturing industry and employment, and transportation infrastructure. It concludes with a discussion of policy options and proposed Buy America legislation relevant to transportation introduced in the 119th Congress.

Build America, Buy America Act

Buy America requirements traditionally extended to federally assisted transportation and water-related infrastructure. BABA expanded Buy America coverage to other federally assisted infrastructure projects, including electrical transmission facilities and systems; utilities; broadband infrastructure; buildings and real property; and structures, facilities, and equipment that generate, transport, and distribute energy, including electric vehicle (EV) charging.[5] Consistent with BABA, at least 24 federal entities administer Buy America requirements,

[1] Buy America requirements date to the passage of the Surface Transportation Assistance Act of 1978 (STAA; P.L. 95-599).

[2] CRS Report R46748, *The Buy American Act and Other Federal Procurement Domestic Content Restrictions*, by David H. Carpenter and Brandon J. Murrill.

[3] The Water Resources Reform and Development Act of 2014 (P.L. 113-121) amended the Clean Water Act to include Buy America iron and steel requirements to projects receiving assistance from Clean Water State Revolving Loan Funds (33 U.S.C. §1388). The Water Infrastructure Improvements for the Nation Act (WIIN; P.L. 114-322) amended the Safe Drinking Water Act to include a similar American iron and steel requirement for funds made available in FY2017 for projects receiving assistance from Drinking Water State Revolving Loan Funds (DWSRF) (42 U.S.C. §300j-12(a)(4)). In 2018, America's Water Infrastructure Act (P.L. 115-270) amended the Safe Drinking Water Act (42 U.S.C. §300j-12(a)(4)) to apply such requirements to assistance from DWSRFs for FY2019 through FY2023. Prior to these developments, some of the earlier annual appropriations acts applied Buy America-type requirements for iron and steel products to these state revolving-fund programs during particular fiscal years.

[4] CRS In Focus IF11989, *Congress Expands Buy America Requirements in the Infrastructure Investment and Jobs Act (P.L. 117-58)*, by William J. Mallett.

[5] 2 C.F.R. §184.4(c).

including the Denali Commission, the Department of Labor, and the Small Business Administration.[6]

Prior to BABA, Buy America requirements applied to iron, steel, and manufactured goods. BABA broadened coverage to include nonferrous metals, such as copper used in electric wiring; plastic- and polymer-based products; glass, including optical fiber; and certain other construction materials, such as lumber, engineered wood, and drywall. Congress excluded cement and aggregates—comprising sand, gravel, and crushed stone—from the BABA's list of construction materials subject to Buy America. Industry groups asserted that transporting these extremely heavy materials from distant U.S. producers rather than closer Canadian or Mexican producers would be costly and might have other adverse effects, including more damage to roads and highways.[7]

Buy America requires iron and steel, manufactured products, and construction materials (with exceptions) incorporated into a federally assisted infrastructure project to be "produced in the United States." For manufacturing products and construction materials, "produced in the United States" means that all manufacturing processes occurred domestically. For iron and steel, this means that all manufacturing processes from the initial melting stage through the application of coatings occurred domestically. Manufacturing process standards for different construction materials are provided at Title 2, Section 184.6, of the *Code of Federal Regulations*. For example, for glass to be considered produced in the United States, "all manufacturing processes, from initial batching and melting of raw materials through annealing, cooling, and cutting, occurred in the United States." For a manufactured good to be "produced in the United States" under BABA, the item must contain greater than 55% domestic content, by cost of the components, and be manufactured in the United States.

Buy America Waivers

The Buy America statutes permit a regulating agency to waive the Buy America provisions in certain situations, including when Buy America requirements would be inconsistent with the public interest, when products and materials are not domestically available in sufficient quantities or of satisfactory quality, and when the domestic products/materials raise the cost of the project by more than 25%.[8] Prior to a waiver being granted, the issuing agency must make the proposed waiver publicly available on a website designated by the Office of Management and Budget (OMB) and must afford the public a specified amount of time to comment.

Waivers can apply to a specific project or generally. Prior to IIJA, a general applicability waiver could be provided in perpetuity. Provisions enacted in BABA require that general applicability waivers be reviewed every five years to determine if a waiver should be continued. Additionally,

[6] Made in America Office, "Buy America Waivers for Federal Financial Assistance," https://www.madeinamerica.gov/resources/financial-assistance/.

[7] Jeff Davis, "Senate Likely to Amend Buy America Bill to Exempt Aggregates and Cement," *Eno Transportation Weekly*, May 28, 2021.

[8] The Department of Transportation (DOT), for example, issued a public interest waiver of Buy America requirements for U.S. Territories (Commonwealth of Northern Mariana Islands, Guam, and American Samoa) and Freely Associated States (Republic of Palau, Republic of the Marshall Islands, and Federated States of Micronesia). DOT noted that waiving Buy America requirements would be in the public interest because, among other things, the location of these places in relation to the mainland United States means they largely rely on supply chains from east Asia, Australia, and New Zealand. See DOT, Office of the Secretary, "Waiver of Buy America Requirements for the Pacific Island Territories and the Freely Associated States," 90 *Federal Register* 3999-4002, January 15, 2025.

the IIJA directed federal agencies, prior to granting a waiver, to assess whether the cost advantage of a foreign product was the result of unfair trade practices, such as dumping or subsidization.

BABA established in statute a Made in America Office within OMB with several responsibilities, including increased enforcement of and compliance with domestic preference statutes. The statute established a centralized system in which OMB serves as the final authority in reviewing waiver requests for all projects using federal funds; previously, the various agencies that administered Buy America requirements were responsible for finalizing waiver requests from their grantees.

The IIJA also instructed all federal agencies to work with the Director of the Hollings Manufacturing Extension Partnership (MEP) to identify American firms that can supply goods and materials that meet Buy America requirements, as well as to develop and sustain a domestic supply base of such goods and materials. The MEP is a national network of centers that provide custom services to small and medium-sized manufacturers (manufacturing firms with 500 or fewer employees) to improve production processes, upgrade technological capabilities, and facilitate product innovation.[9]

Buy America Requirements in Transportation

BABA required federal agencies, including DOT, to identify deficiencies in preexisting Buy America requirements and general applicability waivers that were not consistent with its provisions. In some situations, preexisting Buy America laws in transportation were more stringent than BABA requirements and, thus, were already consistent with BABA. For example, BABA generally requires a manufactured product to be manufactured in the United States, with the cost of the components mined, produced, or manufactured in the United States exceeding 55% of the total cost of all components. However, Federal Transit Administration (FTA) Buy America requirements for rolling stock (e.g., rail cars and buses) require final assembly of the rolling stock in the United States and the cost of the components produced in the United States to be greater than 70% of the total cost (49 U.S.C. §5323(j) and 49 C.F.R. §661).

In some instances, DOT agencies had general applicability waivers that were inconsistent with BABA. Consequently, these agencies have promulgated rulemaking to update the administration of Buy America requirements. For example, in 1983, FHWA waived the application of Buy America requirements to manufactured products other than those manufactured predominantly of iron and steel.[10] Through a new rulemaking process following enactment of BABA, this "Manufactured Products General Waiver" was terminated on March 17, 2025.[11] The new rule stipulates that any manufactured product permanently incorporated into a federal-aid highway project must be manufactured in the United States, with the cost of the components mined, produced, or manufactured in the United States exceeding 55% of the total cost of all components.

Laws and regulations governing Buy America requirements for transportation infrastructure differ to some extent according to the specific funding program and administering agency (see **Table 1**). This includes funding administered by the FTA, the Federal Highway Administration (FHWA), the Federal Railroad Administration (FRA), and the Federal Aviation Administration (FAA). Buy

[9] For more on the Holling Manufacturing Extension Partnership Program, see CRS Report R44308, *The Hollings Manufacturing Extension Partnership Program*, by Emily G. Blevins.

[10] DOT, Federal Highway Administration (FHWA), "Buy America Requirements: Final Rule," 48 *Federal Register* 53099-53104 (November 25, 1983).

[11] DOT, FHWA, "Buy America Requirements for Manufactured Products," 90 *Federal Register* 2932-2958, January 14, 2025.

America also applies to purchases by Amtrak.[12] If a state or local government does not use federal funds on a project, the project is not subject to Buy America (although states may have laws imposing similar requirements on state-funded purchases).[13]

Table 1. DOT Administrations' Buy America Laws and Regulations

Laws and Regulations in Addition to BABA

DOT Administration	*U.S. Code/Code of Federal Regulations*	Example of Specific Requirements
Federal Aviation Administration (FAA)	49 U.S.C. §50101	Requires all steel and manufactured goods to be domestically produced from domestic materials. A waiver may be issued 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.
Federal Highway Administration (FHWA)	23 U.S.C. §313; 23 C.F.R. §635.410	Requirements apply to all contracts for a project carried out within the scope of the National Environmental Policy Act of 1969 (42 U.S.C. §§4321 et seq.) if one contract is federally funded.
Federal Railroad Administration (FRA)	49 U.S.C. §22905(a)	A waiver may be issued if rolling stock or power train equipment cannot be bought and delivered within a reasonable time.
Federal Transit Administration (FTA)	49 U.S.C. §5323(j); 49 C.F.R. Part 661	All manufactured products must be produced in the United States; a waiver may be issued when procuring rolling stock if more than 70% of components, by value, are produced domestically and final assembly is in the United States.
Amtrak (National Railroad Passenger Corporation)	49 U.S.C. §22905(a) when operating under a grant or performing a contract for another grantee; 49 U.S.C. §24305(f) when spending from own capital grant	A waiver may be issued if rolling stock or power train equipment cannot be bought and delivered within a reasonable time, or if the cost of imposing requirements is unreasonable.

Source: Congressional Research Service.

[12] Programs administered by the Maritime Administration (MARAD) were not subject to Buy America requirements prior to BABA, but they were subject to other domestic preference restrictions that derived from earlier statutes, such as the Jones Act, which refers to Section 27 of the Merchant Marine Act of 1920, P.L. 66-261, as amended.

[13] For example, in 1978 Pennsylvania enacted the Steel Products Procurement Act, which requires suppliers contracting with a public agency to use U.S.-made steel unless the head of a public agency determines that the required steel products are not produced domestically in sufficient quantities. 73 Pa. S. §§1881 et seq. Several other states have enacted some form of domestic steel preference legislation, including Maryland, Texas, and West Virginia. See Government Accountability Office (GAO), *Federal-Aid Highways: Federal Requirements for Highways May Influence Funding Decisions and Create Challenges, but Benefits and Costs Are Not Tracked*, GAO-09-36, p. 28, December 2008.

In 2023, DOT finalized a departmental-wide waiver for de minimis costs and small grants.[14] With some exceptions, the waiver applies to the Buy America requirements for iron and steel, manufactured products, and construction materials used in projects funded under DOT-administered financial assistance programs for which (1) the total value of the noncompliant products is no more than the lesser of $1,000,000 or 5% of total applicable costs for the project, or (2) the total amount of federal financial assistance applied to the project, through awards or subawards, is below $500,000.

Section 70916 of BABA directed the Secretary of Transportation to enter into an agreement with the Secretary of Commerce and to consult with the Director of the MEP to determine whether a domestic entity could supply the iron, steel, manufactured product, or construction material needed for an infrastructure project prior to granting a Buy America waiver.[15] Congress created the MEP, a program of the National Institute of Standards and Technology (NIST), in 1988 as part of the Omnibus Trade and Competitiveness Act (P.L. 100-418).[16] The MEP has created the National Network Supplier Scouting Process and "has been formally partnering with the DOT since 2010 in the conduct of Supplier Scouting pilots for several DOT Administrations."[17] In 2022, Congress passed the CHIPS and Science Act (P.L. 117-167), which authorized funding to improve MEP's supplier scouting capability, including the creation of a National Supply Chain Database.[18] MEP subsequently received funding to strengthen regional manufacturing ecosystems and connect manufacturers with transportation project sponsors.[19]

Other Transportation-Related Domestic Preferences

Another restriction applicable to federally supported activities is cargo preference, which requires that a portion of "government-impelled" cargoes be carried on U.S.-flag vessels.[20] Although cargo preference is not a Buy America requirement, one cargo preference provision may affect transportation projects that are subject to Buy America. In 2008, Congress incorporated a provision in the FY2009 Duncan Hunter National Defense Authorization Act (NDAA) specifying that cargo preference requirements apply to cargo imported by an organization or person if the federal government "provides financing in any way with federal funds for the account of any persons unless otherwise exempted."[21] At least 50% of such cargo must be shipped in U.S.-flag

[14] DOT, "Waiver of Buy America Requirements for De Minimis Costs and Small Grants," 88 *Federal Register* 55817-55821, August 16, 2023.

[15] Additionally, Section 70923 of BABA required that the Director of the Made in America Office shall, among other things, "ensure that Federal agencies, Federal financial assistance recipients, and the Hollings Manufacturing Extension Partnership partner with each other to promote compliance with domestic preference statutes."

[16] CRS Report R44308, *The Hollings Manufacturing Extension Partnership Program*, by Emily G. Blevins.

[17] National Institute of Standards and Technology (NIST), Manufacturing Extension Partnership (MEP), "Federal Highway Administration," updated May 27, 2026, https://www.nist.gov/mep/next-generation-supply-chain-transportation-connectivity/opportunities-us-manufacturers-1. For more general information, see NIST, MEP, "Supplier Scouting," updated July 14, 2025, https://www.nist.gov/mep/supply-chain/supplier-scouting.

[18] See, especially, Division B, Title II, Subtitle D, of P.L. 117-167.

[19] Nathan Ginty, "What You Should Know About the Supply Chain Optimization and Intelligence Network," *Manufacturing Innovation Blog*, NIST, MEP, December 21, 2023, https://www.nist.gov/blogs/manufacturing-innovation-blog/what-you-should-know-about-supply-chain-optimization-and.

[20] 46 U.S.C. §55305, 46 C.F.R. Part 381.

[21] P.L. 110-417, §3511; 46 U.S.C. §55305(b).

vessels. The law directs DOT to issue regulations and guidance to govern the administration of cargo preference by other federal agencies.[22]

The Maritime Administration (MARAD) within DOT has not issued regulations to implement the cargo preference requirements of the FY2009 NDAA. The agency submitted a draft notice of proposed rulemaking for OMB approval in December 2011, but the process after interagency coordination efforts has not moved forward. FHWA has interpreted the law to apply cargo preference requirements to federally supported highway projects carried out by state departments of transportation and other agencies.[23] FHWA states that the requirements apply to materials or equipment acquired for a specific federal-aid highway project, but not goods or materials that "come into inventories independent of an FHWA funded-contract. For example, the requirements would not apply to shipments of Portland cement, asphalt cement, or aggregates, as industry suppliers and contractors use these materials to replenish existing inventories."[24] MARAD has applied cargo preference requirements to vessel components imported for ships constructed with federal loan guarantees.[25]

Separately, public transportation agencies are prohibited from using federal funds to purchase rolling stock from companies that are owned, controlled by, a subsidiary of, or otherwise related to a corporation based in the People's Republic of China, even if the vehicles produced are otherwise Buy America compliant (49 U.S.C. §5323(u)). A similar prohibition exists for rolling stock procurements administered by the FAA, such as airport shuttle buses (49 U.S.C. §50101(d)). The prohibition in public transportation procurements was passed as Section 7613 of the National Defense Authorization Act for Fiscal Year 2020 (P.L. 116-92). The provision grandfathered in some rolling stock procurements from otherwise prohibited manufacturers.[26] These grandfathered contracts were the target of proposed legislation known as the Rolling Stock Protection Act in the 117th (H.R. 2970) and 118th Congress (H.R. 3317), and as the Safeguarding Transit Operations to Prohibit (STOP) China Act (H.R. 4361/S. 1711) in the 119th Congress.

Issues for Congress

Proponents of domestic preference laws contend that such laws enhance domestic industrial production, create jobs for American workers, and strengthen supply chain resilience to withstand unexpected disruptions.[27] Some proponents also argue that domestic preference laws enhance national security by preserving certain types of industrial production important for defense

[22] The application of the law to nonfederal entities is codified at 46 U.S.C. §55305; 46 C.F.R. §381.7. The law specifies that cargo preference includes cargoes generated by a federal grant, guaranty, loan, or advance of funds program. It also applies to the borrower, grantee, and any of their contractors or subcontractors.

[23] FHWA, "Cargo Preference Act and Federal-aid Projects," letter from Chief Counsel, December 8, 2015, https://www.fhwa.dot.gov/construction/cqit/cargo/151208.cfm.

[24] FHWA, "Cargo Preference Requirements - Questions and Answers," https://www.fhwa.dot.gov/construction/cqit/cargo/qa.cfm.

[25] 80 *Federal Register* 22611, April 22, 2015. Comments filed by U.S. shipbuilders and domestic ocean carriers in response to the proposed policy clarification asserted that the requirement would severely disrupt shipbuilding supply chains. For additional background, see CRS Report R44831, *Revitalizing Coastal Shipping for Domestic Commerce*, by John Frittelli.

[26] FTA, "Frequently Asked Questions Regarding Section 7613 of the National Defense Authorization Act for Fiscal Year 2020," https://www.transit.dot.gov/funding/procurement/frequently-asked-questions-regarding-section-7613-national-defense.

[27] Alliance for American Manufacturing, "Buy America Policy," https://www.americanmanufacturing.org/issue/buy-america/.

purposes, such as shipbuilding and steelmaking, although this report does not address that issue.[28] There are few, if any, critics of these goals, but some have questioned whether the costs outweigh the benefits.[29] This section discusses the effects of Buy America on manufacturing industry and employment and on transportation projects.

Effects of Buy America on Manufacturing Industry and Employment

Economic research on domestic preference requirements, although not necessarily on Buy America, generally concludes that such preferences enhance production and employment in affected industries, but that these effects may come at the expense of production and employment in other industries and the overall economy.[30] These broader effects stem mainly from the higher prices and slower technological innovation of the protected sectors. For example, using a macroeconomic model, researchers funded by the Canadian government concluded that eliminating Buy America requirements would result in 57,000 fewer U.S. manufacturing jobs, including about 1,600 fewer jobs in the United States in iron and steel production. The researchers also estimated that the U.S. economy overall would gain more than 300,000 jobs if Buy America were terminated.[31] This estimated gain is equal to approximately 0.2% of payroll employment in the United States.

Assessing the specific industrial effects of Buy America requirements on transportation projects is difficult due to the lack of data.[32] For example, it is unclear how much iron and steel are used in transportation projects that receive federal funding; hence, data are not available to calculate how much steel is produced and sold domestically as a direct result of Buy America. The available data suggest that the steel produced for the Buy America market represents a small portion of total domestic demand for steel and, consequently, a small share of jobs.[33]

In other industries, such as rolling stock manufacturing, federally supported procurement may be a bigger component of overall demand. Consequently, Buy America is likely to have relatively

[28] Alexander Gray, "'Buy American' Is a Sensible—and Necessary—Strategy," *The Hill*, December 2, 2022, https://thehill.com/opinion/national-security/3753660-buy-american-is-a-sensible-and-necessary-strategy/.

[29] Phillip Rossetti et al., "Buy America Regulations May Raise Cost of Subsidized Infrastructure," American Action Forum, July 7, 2017, https://www.americanactionforum.org/research/buy-america-regulations-may-raise-cost-subsidized-infrastructure/.

[30] Miguel Acosta and Lydia Cox, "The Macroeconomic Effects of the Buy American Act," working paper, July 6, 2025, https://coxlydia.com/papers/baa.pdf; Matilde Bombardini, Andres Gonzalez-Lira, Bingjing Li, et al., "The Increasing Cost of Buying American," National Bureau of Economic Research, Working Paper 32953, September 2024, https://www.nber.org/papers/w32953.

[31] The study analyzes the effects that eliminating both Buy America and Buy American requirements would have on the U.S. economy. Buy American refers to direct purchases by the federal government. The authors note that these direct purchases either do not face import competition or are subject to free-trade agreements and other WTO commitments. Thus, "in practice, Buy America provisions ... appear to have more important effects on the economy." Peter B. Dixon et al., "Evaluating the Effects of Local Content Measures in a CGE Model: Eliminating the U.S. Buy America(n) Programs," *Economic Modelling*, vol. 68, 2018, pp. 156-166.

[32] A 2008 GAO report looked at the benefits and costs of the Buy America program, but GAO was unable to find a source that tracked resulting demand for American-made products. GAO, *Federal-Aid Highways: Federal Requirements for Highways May Influence Funding Decisions and Create Challenges, but Benefits and Costs Are Not Tracked*, GAO-09-36, December 2008, p. 21.

[33] The Census Bureau estimates that public sector transportation projects were 2.2% of the value of construction put in place in 2025. See Census Bureau, "Monthly Construction Spending, December 2025," Table 2, February 27, 2026, https://www.census.gov/construction/c30/pdf/pr202512.pdf.

larger effects on the domestic production of and employment in railcar and bus manufacturing.[34] Nevertheless, the condition of manufacturing and employment in such industries is likely to depend on many other factors. A 2024 report by the American Public Transportation Association (APTA) on domestic bus manufacturing, for example, stated the following:

> A decade ago, there were 10 bus manufacturers producing more than 100 buses annually; today there remain only three. The 2020-2023 pandemic severely undermined the financial stability of the bus OEMs [original equipment manufacturers]. Labor market tumult, hyperinflation in material and component prices, commodity and chip shortages, hardships encountered by parts suppliers, and the significant increase in the cost of capital, combined to reduce cash flow, impose lengthy delays, and leave many procurements under water. The result is an industry at risk, with reduced competition and increasing bus acquisition costs.[35]

Effects of Buy America on Transportation Infrastructure

Project Benefits and Costs

The industrial effects of Buy America are accompanied by effects on transportation infrastructure through the projects that must comply with Buy America law. Existing research on this topic recognizes that there are likely to be higher costs associated with federal requirements, but the magnitude of these effects is uncertain. As with the industrial effects, many other factors affect the cost of transportation projects, including broader market conditions for raw materials and components and other U.S. government policies that affect the price of goods. For example, U.S. government tariffs on imported steel and aluminum products increase the prices of imported products and domestically produced products that compete with affected imports or use them as inputs.

In the regulatory analysis associated with FHWA's review of its long-standing Buy American manufactured products waiver, the agency attempted to estimate the costs and benefits of rescinding the waiver and instituting a 55% domestic content requirement consistent with BABA.[36] FHWA could not quantify the identified benefits: enhancing domestic manufacturing, increasing supply chain resiliency, and increasing consistency in applying Buy America requirements among federal agencies. Of the costs it identified—materials, administrative costs, project delay, and negative secondary impacts—FHWA could quantify only materials costs and administrative costs (both federal and state). The materials costs estimate, moreover, was uncertain. FHWA estimated total costs over 10 years (FY2026-FY2035) of eliminating the waiver, discounted at 2%, to be between $545 million and $8.5 billion in 2021 dollars. This amount included between $361 million and $8.3 billion in materials costs and $184 million in administrative costs.

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[34] An economic study sponsored by the American Public Transportation Association (APTA) estimated that 4,700 jobs were directly employed by transit bus manufacturers, and that an additional 15,900 people were employed by domestic suppliers. See Oxford Economics, *Buses Mean Business: The Economic Impact of U.S. Heavy-Duty Transit Bus Manufacturing*, September 2026, p. 15, https://www.apta.com/wp-content/uploads/2026/09/Oxford-Economics-Buses-Mean-Business-Sept-2026.pdf.

[35] APTA, *Bus Manufacturing Task Force Recommendations*, January 2024, p. 4, https://www.apta.com/wp-content/uploads/APTA-Bus-Manufacturing-Task-Force-Recommendations.pdf.

[36] FHWA, "Application of Buy America Requirements to Manufactured Products - Regulatory Impact Analysis of Final Rule," December 18, 2024, Docket FHWA-2023-0037, https://www.regulations.gov/document/FHWA-2023-0037-0145.

Along with other factors, Buy America may raise the cost of railcar and bus procurements.[37] One contributing factor is the relatively small size of the U.S. market compared with markets in other countries and regions; consequently, domestic producers do not benefit from economies of scale. According to one estimate, in 2023, bus sales (of all types and uses) in the United States were about 27% of those in China.[38] Studies have noted that transit buses cost more in the United States than in other countries. An analysis of transit bus procurement in 2015 noted that buses in the United States were about twice the price of those in Japan and South Korea. The study also asserted that U.S. bus purchasers are limited in their choice of buses, and that the domestic industry is less innovative than that of other countries. The authors concluded that if public transit agencies could import buses, "they would have access to a greater menu of differentiated products at lower prices. This would lead to a higher quality of service provision (e.g., better service frequency and coverage) which could induce urbanites to substitute from private vehicles to buses."[39] A comparison of EV transit bus purchases in 2023 suggested U.S. transit agencies may be paying close to three times the price compared with elsewhere.[40] Others have suggested that comparing U.S.-built buses to foreign buses can be misleading because of different laws and regulations concerning safety, technology, and design.[41]

Project Delivery

Another concern for transportation projects is the effect of Buy America on project delivery and delay. Project sponsors, such as state departments of transportation and transit agencies, must ensure, when necessary, that product suppliers are Buy America compliant, which can take time and effort. In certain situations, such as when a Buy America product is not available, project sponsors can apply for a Buy America waiver. This too can be a time-consuming endeavor with an uncertain outcome.

Transportation project sponsors have voiced concerns about the waiver process and project delay. For example, in a 2025 letter to FHWA on BABA and the waiver process for manufactured products, the American Association of State Highway and Transportation Officials (AASHTO) stated that without a consistent and clearly understood waiver framework and guidance, the "states' ability to carry out the Federal-aid Highway Program will be impacted by delays to project benefits such as improved safety while increasing costs attributable to this uncertainty."[42] Similarly, the Texas DOT, commenting on the waiver process, stated that "the indeterminant timeframe for resolving waiver requests has resulted in uncertainty and project delays. TxDOT

[37] Eno Center for Transportation and CALSTART, *Customization, Competition, and Costs: Findings and Recommendations for the U.S. Transit Bus Industry*, 2026, https://enotrans.org/wp-content/uploads/2026/08/Customization-Competition-and-Costs.pdf.

[38] Statista, *Buses: Market Data and Insights*, November 2024, p. 13.

[39] Shanjun Li et al., "Public Transit Bus Procurement: The Role of Energy Prices, Regulation, and Federal Subsidies," *Journal of Urban Economics*, vol. 87, pp. 57-71, May 2015.

[40] Léa Bou Sleiman et al., *Paying Less for Public Transit Buses*, Brookings, September 2025, https://www.brookings.edu/wp-content/uploads/2025/09/Paying-Less-for-Public-Transit-Buses.pdf.

[41] Business Members of the American Public Transportation Association, "Understanding the Value of U.S. Transit Buses," 2026. The two-page flyer is available from the author to congressional clients upon request.

[42] Letter from Jim Tymon, executive director, American Association of State Highway and Transportation Officials (AASHTO), to Sean McMaster, administrator, FHWA, September 25, 2025, https://transportation.org/policy/wp-content/uploads/sites/56/2025/09/AASHTO-Comments-to-FHWA-on-Buy-America-Manufactured-Products-2025-09-29-FINAL.pdf.

requests a set timeframe by which the Made in America Office will review waivers or provide full delegation of approval to FHWA."[43]

Another possible source of delay in the waiver process is the MEP, which must be consulted regarding domestic suppliers. Instead of a waiver, such a consultation may result in new customers for a domestic manufacturer or confirmation that no appropriate domestic supplier exists. There is no publicly available information on the outcome of these consultations, nor on how much time they take. The addition of construction materials to Buy America requirements also may have complicated the role of the MEP.

Policy Options and Proposed Legislation in the 119th Congress

As Congress discusses reauthorization of surface transportation programs, lawmakers are considering several legislative proposals related to domestic content requirement for transportation projects. Many of these relate to the implementation of the current Buy America regime and not to the Buy America requirements themselves. Changes to the requirements themselves, such as increasing or reducing the threshold for domestic content to be considered "produced in the United States," are an option Congress could consider. For example, AASHTO recommends that Congress create a new pilot program that requires Buy America certification when buses are evaluated with federal requirements, sometimes referred to as "Altoona testing" because of the location of the testing center in Altoona, PA.[44] Others have suggested exempting foreign bus manufacturers from Buy America for selling up to 100 buses before they have to commit to manufacturing in the United States according to existing Buy America law.[45]

On May 19, 2026, a surface transportation reauthorization bill—the Building Unrivaled Infrastructure and Long-term Development for America's 250th Act (BUILD America 250 Act)—was introduced in the House (H.R. 8870) by the chair of the House Committee on Transportation and Infrastructure. The bill was marked up in the committee and ordered to be reported on May 22, 2026.

Section 1328 of the BUILD America 250 Act would require the Secretary of Transportation to study the feasibility of requiring yellow paint (including pigment used to produce water-based paint) for road and highway surface markings to be manufactured domestically. S. 3819/H.R. 3933 (119th Congress) would add "all yellow organic pigments used in water-based paints for road, highway, or airport surface markings shall be considered to be construction materials" to the list of construction materials and define "produced in the United States" as "all manufacturing processes from initial combination of materials through the chemical reaction resulting in the synthesized pigment, where chemical reaction is a process (including a biochemical process) that results in a molecule with a new structure by breaking intramolecular bonds and by forming new intramolecular bonds, or by altering the spatial arrangement of atoms in a molecule, occurred in the United States."

[43] Texas Department of Transportation, "119th Congress—Federal Priorities: Build America, Buy America Challenges," January 2025, https://www.txdot.gov/content/dam/docs/division/gov/federal-priorities-build-america-buy-america.pdf.

[44] AASHTO, *AASHTO Policy Recommendations: 2026 Surface Transportation Reauthorization*, https://transportation.org/policy/wp-content/uploads/sites/56/2025/06/2026-Reauthorization-Brochure_web-FINAL.pdf.

[45] Bou Sleiman et al., *Paying Less for Public Transit Buses*.

Section 3013 of the BUILD America 250 Act would require the Secretary to issue Buy America waiver determinations within 180 days from when an applicant submits a waiver request, although it would also provide the Secretary of Transportation the authority to extend the deadline for six months. APTA recommends a requirement that a waiver be issued within 60 days generally or 10 days if a waiver for the same product has already been issued by DOT within the past 36 months. APTA also recommends "establishing a centralized Buy America database of construction materials that meet the requirements of the Build America, Buy America Act."[46] AASHTO recommends that DOT "consistently apply the Build America, Buy America (BABA) provision across [its] Operating Administrations and expedite the waiver process."[47]

Some have been concerned that Buy America provisions have not been fully implemented. S. 4393 (119th Congress) would require the "head of each Federal agency to submit to the Made in America Office and to Congress an annual report on the implementation of the Build America, Buy America Act that identifies each new and existing Federal financial assistance program for infrastructure that has and has not fully implemented Buy America preference requirements under that Act."

[46] APTA, *APTA 2026 Surface Transportation Authorization Recommendations*, February 2026, p. 39, https://www.apta.com/wp-content/uploads/2026/03/APTA-Surface-Trans-Auth-Recommendations-022026.pdf.

[47] AASHTO, *2026 Surface Transportation Reauthorization*, pp. 9, 11, https://transportation.org/policy/wp-content/uploads/sites/56/2025/08/2026-Reauthorization-Brochure-PDF.pdf.

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