There are provisions in the Recovery Act for the Federal Aviation Administration, Federal Transit Administration, Federal Railroad Administration, and Federal Highway Administration to apply their own grant requirements, including Buy America.

All waivers have to be posted in Federal Register.


Buy American

The Recovery Act prohibits use of recovery funds for a project for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States.

Buy American

The Secretary of Transportation shall not obligate any funds unless steel, iron, and manufactured products used in such projects are produced in the United States.

Waivers

The Administrator has delegated authority to grant waivers to this requirement to Director of Acquisition and Contracting; Regional Administrators; and Center Directors upon finding that compliance with the Act would:

(1) Be inconsistent with the public interest;
(2) The steel, iron, and goods produced in the United States are not produced in a sufficient and reasonably available amount or are not of a satisfactory quality;
(3) Inclusions of iron, steel, or manufactured goods produced in the United States will increase the cost of the overall project by more than 25 percent.

Buy America

The Secretary of Transportation shall not obligate any funds unless steel, iron, and manufactured products used in such projects are produced in the United States.

Applies to iron and steel products and their coatings that are to be permanently incorporated into the project. The FHWA, in its 1983 rulemaking, determined that Buy America did not apply to raw materials and waived its application to manufactured products, although in the statute, based on the public interest. Lack of adequate domestic supply resulted in a 1995 nationwide waiver for iron ore, pig iron, and reduced/processed/ pelletized iron ore. In 1994, a nationwide waiver for specific ferryboat parts came into effect.

Waivers

The Secretary of Transportation may waive the requirement if the Secretary finds that:

(1) It would be inconsistent with the public interest;
(2) The steel, iron, and goods produced in the United States are not produced in a sufficient and reasonably available amount or are not of a satisfactory quality;
(3) Inclusion domestic material will increase the cost of the overall project by more than 25 percent.

Buy America

The Secretary of Transportation may obligate funds for a project only if the steel, iron, and manufactured goods used in the project are produced in the United States.

Waivers

The Secretary of Transportation may waive the requirement if the Secretary finds that:

(1) It would be inconsistent with the public interest;
(2) The steel, iron, and goods produced in the United States are not produced in a sufficient and reasonably available amount or are not of a satisfactory quality;
(3) Rolling stock or power train equipment cannot be bought and delivered in the United States within a reasonable time.

Buy America

The Secretary of Transportation may obligate funds for a project only if the steel, iron, and manufactured goods used in the project are produced in the United States.

Waivers

The Secretary of Transportation may waive the requirement if the Secretary finds that:

(1) It would be inconsistent with the public interest;
(2) The steel, iron, and goods produced in the United States are not produced in a sufficient and reasonably available amount or are not of a satisfactory quality;
(3) The inclusion of a domestic item or domestic material will increase the cost of the contract between the grantees and its supplier of that item or material by more than 25 percent.

Rolling stock procurements

(1) No funds may be obligated by FTA for a grantee project unless all iron, steel, and manufactured products used in the project are produced in the United States.

Waivers

The Administrator may waive the general requirements if the Administrator finds that:

(1) It would be inconsistent with the public interest;
(2) The materials for which a waiver is requested are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality;
(3) The inclusion of a domestic item or domestic material will increase the cost of the contract between the grantees and its supplier of that item or material by more than 25 percent.

Post only “public interest” waivers in Federal Register.

Domestic Reinvestment Act of 2009, Section 1003 (Buy American (100% Domestic Content of items below)

Federal Aviation Administration (FAA) 49 U.S.C. § 50101 – Buy American (see discretionary waiver when 60% Domestic Content of items below)

Federal Highway Administration (FHWA) 23 U.S.C. § 313 – Buy America; 23 C.F.R. § 635.410 (100% Domestic Content of items below)

Federal Railroad Administration (FRA) High Speed Rail Program 49 U.S.C. Chapters 244, 246; § 24405 – Buy America (100% Domestic Content of items below)

National Railroad Passenger Corporation (AMTRAK) 49 U.S.C. § 24305

Federal Transit Administration (FTA) 49 U.S.C. § 5323(j); 49 C.F.R. Part 661 (Buy America Requirements); (See 60% Domestic Content for buses and other Rolling Stock)