American Recovery and Reinvestment Act of 2009, Section 1604 – 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. § 24205

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

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.

Waivers

The head of the federal department or agency finds that:

(1) It would be inconsistent with the public interest;

(2) Iron, steel, and the relevant manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or

(3) Inclusion of iron, steel, or manufactured goods produced in the United States will increase the cost of the overall project by more than 25 percent.

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) It would be inconsistent with the public interest;

(2) The steel 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) When procuring a facility or equipment under the Airport and Airway Improvement Act of 1982:

(A) the cost of components and subcomponents produced in the United States is more than 60 percent of the cost of all components of the facility or equipment; and

(B) final assembly of the facility or equipment has occurred in the United States; or

(4) Including domestic material will increase the cost of the overall project by more than 25 percent.

Other

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 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.

Waivers

The Administrator may waive the requirement if the Secretary finds that:

(1) It would be inconsistent with the public interest;

(2) The steel, iron, and manufactured 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 of domestic material will increase the cost of the overall project by more than 25 percent.

Other

The requirements only apply to projects for which the costs exceed $100,000.

Labor costs involved in final assembly are not included in calculating the cost of components.

All waivers have to be posted in Federal Register.

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 manufactured 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; or

(4) Including domestic material will increase the cost of the overall project by more than 25 percent.

Other

The requirements only apply to projects for which the costs exceed $100,000.

Labor costs involved in final assembly are not included in calculating the cost of components.

All waivers have to be posted in Federal Register.

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 Administrator may exempt Amtrak from this subsection if the Secretary decides that:

(A) for particular articles, material, or supplies–

(i) the requirements are inconsistent with the public interest; or

(ii) the articles, material, or supplies, or the articles, material, or supplies from which they are manufactured, are not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities and are not of a satisfactory quality; or

(B) rolling stock or power train equipment cannot be bought and delivered in the United States within a reasonable time.

Buy America

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 grantee and its supplier of that item or material by more than 25 percent.

Rolling stock procurements

(a) The Buy America provisions do not apply to the procurement of buses and other rolling stock (including train control, communication, and traction power equipment), if the cost of components produced in the United States is more than 60 percent of the cost of all components and final assembly takes place in the United States.

(b) The cost of components produced in the United States is more than 60 percent of the cost of all components and final assembly takes place in the United States.

Labor costs involved in final assembly are not included in calculating the cost of components.

Post only “public interest” waivers in Federal Register.