

	Buy American	Buy America
Overview	<ul style="list-style-type: none"> ● Covers specified products and requires the U.S. government to purchase domestic construction materials valued at over \$10,000. ● Created a national preference for the government to procure only domestic materials for public construction, unless a waiver is granted. ● Applies specifically when the federal government is directly assisting the procurement of products or where a federal facility is being constructed. ● Goods or products are qualified as being “domestic” when they are 100% manufactured in the U.S. with at least 50% domestic content. 	<ul style="list-style-type: none"> ● Created to address concerns over the surface transportation of highways and bridges, and intended to give preference for the use of domestically produced steel or iron on any procurements funded, at least in part, by the federal government. ● Applies mostly to mass-transit procurements for states and local governments. ● Regulated by the Federal Transit Administration (FTA) and the Federal Highway Administration (FHWA). ● Goods are considered “domestic” when they are 100% manufactured in the U.S., including that all iron and steel components must be mined, melted, and manufactured in the U.S.
Waivers	<ul style="list-style-type: none"> ● Conditions in which waivers apply: <ul style="list-style-type: none"> ○ If materials are not deemed in the public interest by the President and agency heads. ○ If materials are unavailable in the U.S. in enough or of acceptable quantity. 	<ul style="list-style-type: none"> ● Conditions in which waivers apply: <ul style="list-style-type: none"> ○ May be granted on a project-by-project basis if applications are inconsistent with public interest. ○ If the steel or iron are produced in the U.S. in enough or of acceptable quantity. ○ Through FHWA, alternate bidding procedures are allowed and the lowest overall total bid on using domestic steel is 25% more than the lowest overall bid on using foreign steel.

<p>Examples of Buy America vs. Buy American by agency</p>	<ul style="list-style-type: none"> ● Federal Acquisition Regulation (FAR) <ul style="list-style-type: none"> ○ Applies to procurement by federal agencies for federal agency use. This includes the Commercial Off-the-Shelf (COTS) component test waiver ● Defense Federal Acquisition Regulation (DFARS) <ul style="list-style-type: none"> ○ Applies to Department of Defense (DOD) procurement for use at DOD facilities. This includes the COTS component test waiver ● Federal Aviation Administration (FAA) 49 U.S.C Sec 50101 <ul style="list-style-type: none"> ○ Requires 100% domestic materials, but applies only to construction materials, not the subcomponents within the products themselves. ○ There are also several waivers for public interest, availability, cost of products or overall cost of project ● U.S. Maritime Administration (MARAD) 41 U.S.C Chapter 83 <ul style="list-style-type: none"> ○ Requires products to be manufactured in the U.S. under Buy American guidance. 	<ul style="list-style-type: none"> ● FHWA 41 U.S.C Section 313 / 23 CFR 635.410 – <ul style="list-style-type: none"> ○ Manufactured products are not covered so this that it only applies to steel or iron products ● AMTRAK 49 U.S.C. Sec 24305 – <ul style="list-style-type: none"> ○ Requires That the construction product be manufactured in the U.S., and made of subcomponents that are “substantially” domestic. Includes a number of exemptions based on cost and availability.
--	---	--