



# Buy America Preference

## *In Financial Assistance for Infrastructure*

### Build America, Buy America Act

The [Build America, Buy America Act](#) (sections 70901-52 of the Infrastructure Investment and Jobs Act, Pub. L. 117-58) requires all federal agencies to ensure that no financial assistance funding is provided for infrastructure projects unless all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States, unless subject to an approved waiver. Per the [Office of Management and Budget \(OMB\) memorandum M-22-11](#), federal agencies must meet this requirement by May 14, 2022.

### “Buy America” Preference

*A domestic procurement preference applies to these categories of products and materials used in infrastructure projects:*

- **All iron and steel.** All manufacturing processes, from the initial melting stage through the application of coatings, must occur in the United States.
- **All manufactured products.** Must be manufactured in the United States and the cost of its domestically mined, produced, or manufactured components must be greater than 55 percent of the total cost of all its components unless another standard applies under law or regulation.
- **All construction materials.** All manufacturing processes for the construction material must occur in the United States.

Classify an article, material, or supply into only one category. Apply the iron and steel test to items made mostly of iron or steel unless another standard applies under law or regulation.



*Boating Infrastructure Grant dock project, Wharf Marina, Washington, D.C.*

Credit: Brad Gunn, USFWS

### Application

*The Buy America preference applies to:*

- All Service programs where we award [financial assistance](#) funds for infrastructure, even when infrastructure is not the primary purpose.
- All new awards, award amendments, and renewal awards [to non-federal entities](#) where we award funds for infrastructure on or after May 14, 2022, even when related funding opportunities did not identify it as applicable.
- Only the iron and steel, manufactured products, and construction materials used for an infrastructure project that are consumed in, incorporated into, or affixed to the infrastructure.
- An *entire* infrastructure project, including both federal and non-federal funding.

*The Buy America preference does not apply to:*

- Financial assistance expenditures excluded from the definition of “Federal financial assistance” in section 70912(4)(b) of the [Build America, Buy America Act](#).
- Non-infrastructure spending under an award that includes an infrastructure project.
- Tools, equipment, and supplies brought to the construction site and removed at or before project completion.
- Equipment and furnishings used or within the finished structure but not an integral part of or permanently affixed to it.

**Waivers**

Subject to prior review by the public and the [OMB’s Made in America Office](#), federal agencies may waive the application of this Buy America preference in any case in which the agency finds that:

1. Applying it would be inconsistent with public interest,
2. The United States does not produce the needed product or material in a sufficient and available quantity or of a satisfactory quality, or
3. Applying it would increase the overall project cost by more than 25 percent.

**Types of Waivers**

1. **Public interest**
2. **Nonavailability**
3. **Unreasonable cost**

The Service will include all waiver submission requirements, instructions, and procedures in Notices of Award or Award Amendments as applicable. This information is also detailed in the [Service’s General Award Terms and Conditions effective May 14, 2022](#).

For more information, see the [Department of the Interior’s Buy America web page](#).

**Definitions**

*Infrastructure* includes, at a minimum, the structures, facilities, and equipment for, in the United States, roads, highways, and bridges; public transportation; dams, ports, harbors, and other maritime facilities; intercity passenger and freight railroads; freight and intermodal facilities; airports; water systems, including drinking water and wastewater systems; electrical transmission facilities and systems; utilities; broadband infrastructure; and buildings and real property. Infrastructure includes facilities that generate, transport, and distribute energy.

*Project* means the construction, alteration, maintenance, or repair of infrastructure in the United States.

For more definitions, see section 70912 of the [Build America, Buy America Act](#) and the [OMB M-22-11 memorandum](#).

**Contact**

E-mail questions, comments, or information requests *regarding this Buy America preference* to: [fwhqfasupport@fws.gov](mailto:fwhqfasupport@fws.gov).

E-mail *any other* financial assistance questions, comments, or information requests to: [fwsgrants@fws.gov](mailto:fwsgrants@fws.gov).