



**BUY AMERICAN**

## **NAVIGATING BUY AMERICAN REQUIREMENTS**

The American Recovery & Reinvestment Act (ARRA) became effective February 17, 2009, with the purpose of stimulating the American economy by preserving and creating U.S. jobs. The Act includes a strong emphasis on Buy American.

Buy American requirements are not new to the world of Federal procurement. In fact, the Buy American Act became effective in 1933 with similar intent as the current provision under the ARRA. Over the years, some government agencies such as the Federal Transit Administration (FTA) or states receiving ARRA block grants have included their own Buy American requirements in their procurement rules. We always recommend that you consult with the appropriate government official for these projects to determine their specific Buy American requirements.

Acuity Brands has processes and products in place designed to meet Buy American requirements. Most of our products are manufactured in the U.S. or in a country recognized by U.S. Trade Agreements. We are offering this overview to help you navigate through and understand the practical application of these sometimes confusing Buy American procurement requirements.

**The Buy American Act** applies to most federal agencies where the contracts are not being funded by stimulus dollars. The Act requires that the U.S. government give preference to U.S. made products in its procurement processes. The government uses a two-prong test to determine compliance with these requirements:

The first prong relates to domestic material. The Government requires that the cost of a product's components mined, produced or manufactured in the United States must exceed 50% of the cost of all of its components, unless waived as a commercial off-the-shelf (COTS) product. Any of our products that are not custom qualify for this waiver; thereby, waiving the domestic component requirement

The second prong relates to domestic manufacturing. The Government requires that the end product be domestically manufactured.

**The Buy American provision under the ARRA** applies to most federal agencies where the contracts are funded by stimulus dollars. It dictates that stimulus funds will not be allocated unless the public building or work is located in the United States and all of the

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iron, steel or other manufactured goods used as construction material in the project are produced or manufactured in the United States.

There is no domestic material requirement in the Buy American provision in ARRA.

**The Buy America Law applies to procurement in the Federal Transit Administration (FTA).** This law requires that no funds may be obligated by the FTA for a grantee project unless all iron, steel and manufactured products used in the project are produced in the United States. According to the FTA, a manufactured product is the actual construction project (i.e. the building being constructed). Components of the building include elements like the HVAC and electrical systems are also required to be produced in the United States. Sub-components, including lighting products, do not have to be of U.S. origin and may be foreign sourced. Click the link below to learn more about these requirements.

**[FTA Buy American Requirements](#)**

**State projects receiving ARRA funding under block grants** may utilize a different interpretation of domestic requirements. The general contractor for these projects should define the specific requirements before products are specified or ordered.

**Trade Agreements and Waivers:** The Buy American requirements do not apply to procurement that is subject to certain trade agreements. In these situations, products obtained from authorized countries are not to be discriminated against in the procurement process and should be given equal consideration as domestic end products. The dollar value of the contract typically determines what, if any, trade agreement applies. There are also other situations when the contracting officer has the authorization to waive the Buy American requirements. Follow the link below to learn more about Trade Agreements and these waivers.

**[Trade Agreements: FAR Subpart 25.4](#)**

**[Buy American Waivers: FAR 52.225.9](#)**

**Contact Us:** Please contact your local sales representative to learn more about our products that comply with these requirements or contact us at [government@acuitybrands.com](mailto:government@acuitybrands.com). When contacting us, please be prepared to provide us with the following information so we can respond appropriately to your Buy American questions:

1. The contracting authority (i.e. DOD, FTA, etc.)
2. The contract type: Supply, Construction or Services
3. The total value of the contract
4. How the contract is being funded (stimulus vs. non-stimulus)
5. Whether or not Trade Agreements will be honored

**Remember that *Final authority for compliance resides with the government official. Verification of applicable procurement rules from the government agency official is advised.***

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