

THE NEW CENTER

Policy Paper

January 2021



Why Buy American Usually Doesn't Buy Us Much

WHY BUY AMERICAN USUALLY DOESN'T BUY US MUCH

January 2021

AUTHOR

Zane Heflin

Policy Analyst

zane@newcenter.org

ABOUT THE NEW CENTER

American politics is broken, with the far left and far right making it increasingly impossible to govern. This will not change until a vibrant center emerges with an agenda that appeals to the vast majority of the American people. This is the mission of The New Center, which aims to establish the ideas and the community to create a powerful political center in today's America.

THE NEW CENTER

1808 I Street NW, Fl. 5

Washington, D.C. 20006

www.newcenter.org

EXECUTIVE SUMMARY

As President-elect Joe Biden prepares to take office, the United States is still reeling from the worst economic shock since the Great Depression. The U.S. unemployment rate has dropped from an April high of 14.7% to 6.9% as of November 2020, but the recent surge in COVID-19 cases across the nation has slowed the recovery and increased small-business shutdowns and layoffs. Biden has laid out his “Build Back Better” economic agenda, which calls for massive domestic investment and a goal of reviving American manufacturing jobs, [5 million](#) of which have been lost since 2000. Part of this agenda includes implementing new rules to encourage “Buy American” as well as mandates to create products that are “Made in the USA.”

If these ideas sound familiar, it’s because they are. President Donald Trump came into office in 2016 stating his administration would follow [two simple rules](#) of “Buying American” and “Hiring American.” Buying American refers to the requirement for U.S. government purchases to prefer U.S.-made products. Hiring American is a more subjective idea referring to bringing back more American jobs from abroad.

Buy American provisions are immensely popular with the public, as evidenced by a recent 2020 poll that found that [75% of Americans](#) support the policy.

But do these policies actually deliver on their promises to spur the U.S. economy and job market? This New Center issue brief will evaluate the history and effectiveness of these policies, as well as what we can expect from the newest iteration found in President-elect Biden’s economic agenda.



THE HISTORY OF THE BUY AMERICAN ACT AND BUY AMERICA ACT

There are currently two federal laws—one passed in 1933 and the other in 1982—that relate to the preference of domestic suppliers for government purchases. The [initial idea](#) of Buy American dates back to the Buy American Act signed on March 3, 1933 during President Herbert Hoover’s last day in office. The legislation was motivated in part by the “Buy British” marketing campaign in 1931, which was the British government’s attempt to handle a balance of payments crisis without relying on tariffs. Additionally, there was growing frustration from U.S. leaders over the amount of “Made in England” construction materials purchased to build U.S. government properties. In the aftermath of the Great Depression, the legislation was also intended to safeguard American jobs for a major upcoming construction contract—the [Hoover Dam](#).

In practice, the Buy American Act works as a price preference instrument in government procurements of domestic end products and domestic construction materials. The Buy American Act applies when the federal government is directly purchasing or assisting in the procurement of products, or a federal facility is being constructed. Under this statute, the goods or products are qualified as being domestic when they are 100% manufactured in the United States and with at least 50% domestic content. Proposals that do not meet Buy American requirements are assigned a cost penalty for their bids, which is an added percentage increase in the cost of foreign products during evaluation. When government procurement is covered by Buy American, U.S. companies usually win the contract due to their price advantage.

In 1982, President Ronald Reagan signed a related piece of legislation, the Buy America Act, which requires recipients of federal funds from the Department of Transportation—typically grants provided to state and local governments—to purchase American goods from American companies. The goal of this legislation was to ensure that American materials would be used for the redevelopment of American roads and bridges as part of the Surface Transportation Act of 1982. Today, this law only applies to [mass-transit procurements](#) for state and local government projects such as the construction of railways, highways, or rapid-transit systems. Under the Buy America Act, end products must be 100% manufactured in the United States and all steel and iron components must be mined, melted, and manufactured in the United States.





WHAT IT TAKES TO EARN THE LABEL "MADE IN THE USA"

The Made in the USA label is a standard enforced by the [Federal Trade Commission](#) (FTC) and stipulates that a product must be made “all or virtually all” in the U.S. “All or virtually all” means that all significant parts and processing that go into the product must be of U.S. origin. That is, the product should contain no—or negligible—foreign content.

When a manufacturer or marketer makes an unqualified claim that a product is Made in the USA, it should have a “reasonable basis” to support the claim at the time it is made. This means a manufacturer or marketer needs competent and reliable evidence to back up the claim that its product is “all or virtually all” made in the U.S. The product’s final assembly or processing must also take place in the U.S. The FTC then considers other factors, including how much of the product’s total manufacturing costs can be assigned to U.S. parts and processing, and how far removed any foreign content is from the finished product.

The “Made in the USA” label for consumer goods is a far stricter requirement than what is necessary to earn that label for [government procurement purposes](#). A good bought by the federal government could have as little as 51% of its parts come from the U.S. to meet the requirement set by the Buy American Act. Meanwhile, a consumer good must be made up of “all or virtually all” American parts to be considered Made in the USA.

TRUMP'S "MADE IN THE USA" STRATEGY

During his presidency, Trump has made extensive use of Executive Orders (EO) to shape federal agency implementation of Buy American requirements. The Trump administration points to 10 executive orders that account for his [“Made in the USA”](#) strategy. These include:

- EO 13788 - Buy American and Hire American
- EO 13796 - Addressing Trade Agreement Violations and Abuses
- EO 13806 - Assessing/Strengthening the Manufacturing and Defense Industrial Base and Supply Chain Resiliency of the U.S.
- EO 13858 - Strengthening Buy-American Preferences for Infrastructure Projects
- EO 13873 - Securing the Information and Communications Technology and Services Supply Chain
- EO 13881 - Maximizing Use of American-Made Goods, Products, and Materials
- EO 13920 - Securing the United States Bulk-Power System
- EO 13921 - Promoting American Seafood Competitiveness and Economic Growth
- EO 13922 - Delegating Authority Under DPA to the U.S. International Development Finance Corporation to Respond to COVID-19 Outbreak
- EO 13944 - Ensuring Essential Medicines, Medical Countermeasures, and Critical Inputs are made in the U.S.



The actual cornerstone of President Trump’s “Made in the USA” strategy was Executive Order 13788 on Buy American and Hire American. Signed on April 18, 2017, this [EO was meant](#) “to promote economic and national security and to help stimulate economic growth, create good jobs at decent wages, strengthen our middle class, and support the American manufacturing and defense industrial bases.”

The order set out to ensure that all aspects of [steel and iron production](#) must occur in the United States in order to reduce the impact of cheaper, foreign-sourced products that benefited from the use of “dumped or injuriously subsidized steel, iron, or manufactured goods.” So far, this order has led to a decline in foreign imports of steel and iron; however, U.S. employment and production in the steel and iron industry have [yet to benefit](#). It also directed federal agencies to scrutinize their compliance with Buy America requirements and to minimize their use of waivers to purchase foreign goods and services. These waivers allow for some government procurement purchases to avoid Buy American requirements in cases where the goods are not commercially available in the United States in sufficient quality or quantity, or when it would be “inconsistent with the public interest”.

The other Executive Orders of note are the Executive Order on Strengthening Buy-American Preferences for Infrastructure Projects and the Executive Order on Maximizing Use of American-Made Goods, Products, and Materials. Signed in 2019, these orders extended the purview of the Executive Order on Buy American and Hire American. The former order targeted infrastructure projects that receive federal financial assistance awards, greatly widening the scope of affected programs and projects. The latter order reinterpreted the “component test” to increase the thresholds for U.S.-origin components.

Overall, according to the [Office of Management and Budget](#) (OMB), the Trump administration’s efforts to expand the Buy American Act were responsible for a 26% increase in domestic procurement and an 8% reduction in the dollar value of Buy American waivers from FY2015-2016 to FY2018-2019.

BIDEN'S MADE IN AMERICA PLAN

President-Elect Joe Biden has made Buying American a [key component of his economic agenda](#). Biden argues that his economic agenda will “Make Buy American Real” and his commitments are actually quite similar to those made by the Trump administration. Biden’s list of policy objectives, most of which do not require legislation from Congress, include:

- Tightening domestic content rules. Biden would increase the greater than 50% requirement to be considered a U.S. product for government procurement purchases.
- Cracking down on waivers to Buy American Requirements. Biden will establish a process that makes waivers public and expands efforts to identify domestic firms that can meet those procurement needs.
- Ending false advertising on Made in USA products. Biden will crack down and impose penalties on companies that falsely label their products as Made in the USA.
- Extending Buy American to other forms of government assistance. Biden will require all companies that benefit from government-funded research and development investments to make their products in the U.S.
- Strengthening and Enforcing Buy America. Biden will strengthen and enforce the requirements that steel, iron, and manufactured products used in transportation projects are melted, mined, and manufactured in the U.S.
- Updating trade rules for Buy American. Biden will work with allies to modernize international trade rules and associated domestic regulations regarding government procurement to make sure that the U.S. and its allies can use their own taxpayer dollars to spur investment in their own countries.
- Shipping American. Biden will continue to support the Jones Act, which mandates that only U.S.-flag vessels carry cargo between U.S. ports.

President-Elect Biden is also calling for \$400 billion in government purchases of U.S. goods and services during his first term, and he would specifically target and commit to:

- purchasing tens of billions of dollars of clean vehicles and products to support the expansion of clean energy generation capacity
- purchasing American steel, cement, concrete, building materials, and equipment to help rebuild infrastructure
- purchasing critical medical supplies and pharmaceuticals ensuring sufficient stockpiles to weather any crisis
- purchasing products in advanced industries like telecommunications and artificial intelligence

According to President-elect Biden’s [campaign website](#), companies receiving procurement contracts will be required to “support good American jobs, including a commitment to pay at least \$15 per hour, provide paid leave, maintain fair overtime and scheduling practices, and guarantee a choice to join a union and bargain collectively. Biden would also require at least 23% of federal contracts be awarded to small businesses (an extension of the 2009 American Recovery and Reinvestment Act), as well as launching a new Federal Procurement Center that helps minority-owned firms apply for and win federal government contracts.”

NEW CENTER CONCLUSION

All of this focus on strengthening Buy American from both political parties would lead one to believe that an enormous amount of government funds must be going towards purchases from foreign countries.

The reality is far different.

According to a 2018 study by the [Government Accountability Office](#) (GAO), of the \$196 billion in federal obligations in fiscal year 2017 to purchase end products, just \$7.8 billion, or 4%, were foreign end products purchased using exceptions to Buy American requirements. The U.S. is also not an anomaly when it comes to its overall imports as a percentage of government procurement. The OECD average is 4.4%, which is the exact same as the U.S. rate of foreign purchases. A compounding issue is that Buy American requirements often encourage other countries to implement and expand their own domestic purchase requirements. This [protectionist tit-for-tat](#) reduces opportunities for U.S. companies to benefit from bidding on foreign government projects in a global market estimated to be worth [\\$11 trillion](#).

Ultimately, there is not much evidence that Buy American policies protect or create many jobs in the U.S. An analysis conducted by the [Heritage Foundation](#) found “no positive correlation between Buy American requirements and job growth in the affected industries.” To cite just one example, as Buy American laws expanded from 1980 to 2016, the steel industry saw a decline in employment from 500,000 to 136,000.

Although Buy American policies haven’t delivered much economic impact, the COVID-19 pandemic has revealed there are instances where the U.S. should have procurement and other provisions that favor U.S. manufacturers of essential products and medicines. Shortages of personal protective equipment (PPE) throughout 2020 proved to be a huge challenge for frontline medical workers combatting the virus across the U.S. [Eighty percent](#) of the active pharmaceutical ingredients that go into U.S. medicines are exported from China or India. As the pandemic worsened, many countries began [limiting their exports](#) of critical medical supplies in order to domestically distribute these goods to their own hospitals in need.

President Trump’s EO 13944 targeted this very issue with the goal of building future capacity for domestic drug production. But this was merely a band-aid, and in fact, increasing compliance regulations and penalizing foreign suppliers has had the inadvertent effect of [raising prices](#) on these critical medical supplies, making it harder to get access when this equipment is most needed.

The next administration and Congress will need to come up with a comprehensive solution to ensure the U.S. has enough domestic capacity to produce its own essential medicines and medical supplies. But the broader set of Buy American policies haven’t proven deserving of the attention they get from either Republicans or Democrats. In order to support American workers with more economic opportunities, we ought to turn our attention elsewhere.