

9 Steps to Revitalize America's Manufacturing Communities

Action 2: Buy America

MAY 9, 2019 — ANDREW STETTNER, THOMAS CROFT, MICHAEL SHIELDS, JOEL S. YUDKEN, STEVE HERZENBERG, JACK MILLS AND CHRISTY VEEDER, PH.D.

Rationale

Every day states spend hard-earned taxpayer dollars on infrastructure. Spending that money on Made-in-America products keeps our money in the economy, supporting good paying manufacturing jobs and companies that pay local taxes. Infrastructure spending is one of the most important parts of state spending when it comes to making an impact on U.S. manufacturing. Infrastructure, whether it is roads or bridges or mass transportation, depends on iron, steel, and many other manufactured goods and materials like cement, concrete, and glass. And federal and international law give states more leeway to require domestic content than for other types of purchased goods.¹ States should make sure they have strong Buy America rules for infrastructure and then explore preferences for other procured goods.

Key Actions

The federal government already requires Made-in-America iron, steel, and other manufactured goods in federally financed infrastructure and defense projects.² States can extend these protections to state-funded infrastructure projects, including public buildings like schools, hospitals,

roads, bridges, mass transit, waterways, and airports that are not covered by federal Buy America rules. Here are some steps that states should take:

- States should prioritize requiring Made-in-America iron and steel, which are the easiest to label and determine if they are fully manufactured in the United States. Other manufactured goods should also be included in state protections lists, but these goods will require more oversight from state agencies to determine the production location of components.
- States should allow limited exemptions to Buy America provisions for goods that are not produced in the United States at sufficient and reasonably available quantities or if the purchase of domestic material will increase the overall project contract by more than 25 percent.

This report can be found online at: <https://tcf.org/content/report/9-steps-revitalize-americas-manufacturing-communities/>

Issues to Remember

- States should not restrict infrastructure to producers from their own state, but rather use the broader-based Made-in-USA content rules. Short of content requirements, states can bolster local manufacturing through procurement by creating publicly supported markets for in-state goods and holding Made in [X state] marketing campaigns. Within overall rules regarding procurement by the lowest qualified bidder, states can institute preferences (not requirements) for locally produced goods. For example, one proposal suggests giving a preference to contractors who use locally produced food and whose services are no more than 10 percent more expensive than any other bidder.³
- States and localities should pay special attention to the purchase of rolling stock. As outlined by Jobs to Move America and The Century Foundation, the U.S. Department of Transportation's U.S. Employment Plan gives regional governments a format to follow in structuring bids in ways that boost U.S. manufacturing and provide training pathways for disadvantaged workers.⁴

Recent Progress

- In December 2017, New York State extended Buy America provisions for structural iron and steel to a wide variety of entities, such as the Metropolitan Transportation Authority and the State University of New York's Dormitory Authority.⁵
- In September 2017, Texas extended Buy America rules for iron and steel for state-financed construction products and added Buy America protections for iron in all state-funded transportation projects, which already required American steel.⁶

Model Program

The American Alliance for Manufacturing can provide model legislation of Buy America implementation. Their model requires construction, repairs, and maintenance of public buildings and public works to use iron, steel, and manufactured goods that are produced in the United States. The model provides limited exemptions, including when there are insufficient materials of a given category made in the United States and when it increases the cost of a project by more than 25 percent. It also provides a thirty-day notice and comment period for any such waiver request. Furthermore, it provides enforcement provisions that would debar any contractor from bidding on state construction projects if they are found to have intentionally violated Buy America rules with a false Made in USA label or other means of misrepresenting where materials are made.

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Notes

¹ Steel Valley Authority, annual performance audits and calculations, cumulatively added to its 2014–16 Annual Report, as submitted to the Pennsylvania Department of Labor and Industry.

² Most states have signed on to the General Procurement Agreement of the World Trade Organization which gives companies in their states access to international markets for procured goods and services in exchange for access to U.S. markets. The GPA specifically exempts transportation and mass transit spending, however. “General Procurement Agreement,” World Trade Organization, accessed April 1, 2019.

³ Kate Manuel, “The Buy America Act – Preference for Domestic Supplies: In Brief,” Congressional Research Services, April 26, 2016, <https://fas.org/sgp/crs/misc/R43140.pdf>.

⁴ “ALICE Model Local Food Procurement,” ALICE Law, July, 2013, available at https://s3.amazonaws.com/stateinnovation-uploads/uploads/asset/asset_file/ALICE_Model_Local_Food_Procurement_7_23_13.pdf.

⁵ Madeline Janis, Roxana Aslan, and Katherine Hoff, “Harnessing Government Spending to Revitalize Good Manufacturing Jobs,” Jobs to Move America and The Century Foundation, October, 2017, <https://tcf.org/content/report/harnessing-government-spending-revitalize-good-manufacturing-jobs/>.

⁶ “Governor Cuomo Signs ‘Buy American’ Legislation for All Structural Iron and Steel on New York Roads and Bridges,” Office of the Governor, New York State, December 15, 2017, <https://www.governor.ny.gov/news/governor-cuomo-signs-buy-american-legislation-all-structural-iron-and-steel-new-york-roads-and-> and “New York Buy America Act,” New York State Legislature, Laws of New York, chapter 451, 2017, <http://public.leginfo.state.ny.us/navigate.cgi?NVDT0>.