

Local Government Contracts and Buying American

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In April 2018, President Trump issued an [Executive Order](#) calling for stricter enforcement of the federal government's "Buy American" laws. These laws have been on the books for several decades and generally require that the federal government purchase goods and materials manufactured in the United States, with some laws also applying to certain state and local government purchases. Specifically, the [Buy America Act](#) applies to public-transportation purchases and requires that all iron, steel, and manufactured products must be from the United States, and 60% of the components of rolling stock (busses and rail cars) must be from the United States. The Executive Order in part directed federal agencies to develop policies to strengthen enforcement of the Buy American laws, and based on the deadlines in the Order, those new policies should be forthcoming.

In a world of global supply chains, compliance with Buy America has become increasingly complicated. For example, in case of AnsaldoBreda, an Italian railcar manufacturer (now Hitachi Rail), in its successful bid for the replacement fleet of Miami-Dade County's Metrorail system. For that particular project, special approval was required (and [obtained](#)) to construct the vehicles in the United States, ship them to Italy for initial testing, and then ship them back to Miami for final testing. Fortunately, that project has successfully moved forward, and the first new Hitachi train entered service for Miami-Dade County just last week.

It appears that Buy America requirements may soon become more stringent, which could impact the engineering and production plans for new transit projects. One change telegraphed by the Executive Order is a reduction (if not elimination) in waivers granted by the federal government. In the past, the Federal Transit Agency authorized limited overseas purchases by waiving certain requirements of the Act. An example is permitting a railcar provider to construct the initial "pilot" vehicles overseas, and then after the vehicles have been perfected and tested, construct the remainder of the vehicles in the United States. While the Obama administration was frugal with waivers compared to the Bush administration, it appears that the Trump administration may be even less willing to grant Buy America waivers in the future. Even before any regulatory changes are announced, the apparent change in waiver policy may need to be considered when developing a proposal for an FTA-funded transit procurement.

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