



**Summary of Build America, Buy America Act  
As approved by the Senate  
June 8, 2021  
As part of S. 1260, the United States  
Innovation and Competition Act of 2021**

The bill prohibits Federal financial assistance (including the Federal Aid Highway Program and the Airport Improvement Program) from being obligated unless the “construction materials used in the project are produced in the United States.” Further, the bill states “that all manufacturing processes for the construction material occurs in the United States.”

Within 60 days, the U.S. Department of Transportation (DOT) must submit a report to the Office of Management and Budget (OMB) that identifies the programs where a domestic content procurement preference does not apply or is subject to a waiver.

Within 180 days, the DOT shall apply the Buy America preference to construction materials used in Federal Aid Highway and Airport Improvement Grant programs. The DOT may waive the requirement if it is in the public interest, the construction material is not readily available to be produced in the United States in sufficient quantities, or the inclusion of construction materials produced an overall price increase of the overall project by more than 25 percent.

The legislation requires OMB to issue guidance to DOT that defines the term “all manufacturing processes” in the case of construction materials. The definitions should also ensure the standard required for the manufacture of the construction materials and the inputs of the construction materials occurs in the United States and maximizes direct and indirect jobs benefited or created in the production of the construction material.

Within one year, OMB is required to issue final regulations on how DOT is to enforce the Buy America Act. The regulations must include the circumstances under which the acquisition of construction materials produced in the United States is inconsistent with the public interest. The guidance will also stipulate how the DOT can base decisions on the non-availability of construction materials such as project delays and lack of substitutable materials.

The OMB must establish a “Made in America Office” within the agency whose duties include enforcing compliance with Buy America and develop procedures for waivers.

The legislative text can be downloaded [here](#).