

Related Legislation

Large federal, state and local government projects receive federal funds authorized by laws that require significant U.S. content. These billions of dollars in federal funds extend the reach of the Buy American Act to state, municipal and private sector contracts. The use of U.S. materials is a condition of the grant; recipients must comply with Buy American requirements in order to be eligible for the funds. These projects are often in export sectors of key interest to Canada such as transportation and communications. Use of Canadian products in these projects is often difficult or impossible. Federal funding programs include:

The Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991 provides capital and operating funds granted by the Federal Transit Administration and the Federal Highway Administration for transportation projects, including urban mass transit, rail and highways. In general, it requires the use of U.S. materials unless the granting agency determines that an exception should be made.

The Federal Transit Administration grants funding on the understanding that all steel and manufactured products (except cement) used in the funded project -- even at the state or local level -- be produced in the United States. All of the manufacturing processes for the product must take place in the United States and all items or materials used in the product must be of American origin. There are detailed definitions for calculating American content in components and subsystems. On any grant made for the purchase of transit vehicles, the general prohibition does not apply if the cost of components produced in the United States is more than 60 per cent of the cost of all the components, and final assembly takes place in the United States.

The Federal Transit Administration may determine that an exception may be made if:

- use of American goods is contrary to the public interest of the U.S.;
- the materials for which the waiver is requested are not available in sufficient quantity and reasonable quality; or
- inclusion of American goods would increase the cost of the contract between the grantee and the supplier by more than 25 per cent.

The Federal Highway Administration interprets the Buy American Act provisions of ISTEA more narrowly. When it grants funds, it requires only that manufactured products made of iron or steel be made in the United States.