

Buy American

Legislation and sourcing opportunities
for domestically manufactured paper.

Paper and paper products have never been imported to the U.S. in such high numbers, and domestic paper buyers are deluged with offers from foreign paper manufacturers. This creates confusion for the whole industry in light of recent new Made in America preference policies.

We are not sure how these policies will impact projects funded by the government – including indirect paper purchases, but we’ve created this white paper to shed light on the recent federal laws requiring that purchase decisions consider Made in America requirements and to make some recommendations to domestic paper buyers who must be mindful of compliance, and may wish to incorporate buying American to meet these requirements.

As one of a handful of American paper manufacturing companies, and the only paper mill west of the Mississippi River producing both coated and uncoated printing and writing grade papers, Willamette Falls Paper Company is uniquely positioned to be a supplier of projects that fall under these new requirements.



Timeline and Legislation

January 2021

Presidential Executive Order

In January 2021, President Joe Biden signed [Executive Order 14005](#), “Ensuring the Future is Made in All of America by All of America’s Workers,” which states, “It is the policy of my Administration that the United States Government should...maximize the use of goods, products, and materials produced in...the United States.”

June 2021

Infrastructure Investment and Jobs Act

In June 2021, Oregon Rep. Peter DeFazio introduced the [Infrastructure Investment and Jobs Act](#) (IIJA), which specifically stated that “Congress finds that...strong domestic content procurement preference policies act to prevent shifts in production to countries that rely on production practices that are significantly less energy efficient and far more polluting than those in the United States.” Also, it is the sense of Congress that:

(1) every executive agency should maximize, through terms and conditions of Federal financial assistance awards and Federal procurements, the use of goods, products, and materials produced in the United States and contracts for outsourced government service contracts to be performed by United States nationals;

On November 15, 2021, President Biden signed the IIJA, which included the [Build America, Buy America Act \(BABA\)](#), strengthening Made in America laws. In addition to other pre-existing laws, BABA relates to “infrastructure projects” that use federal money.



April 2022 Executive Office Memorandum

An April 18, 2022, Memorandum from the Executive Office of the President further defined the terms and limits of the BABA, saying, “A federal financial assistance program for infrastructure is any program under which an award may be issued for an infrastructure project, regardless of whether infrastructure is the primary purpose of the award.”

It also provides additional guidance for defining infrastructure, saying that it includes, “at a minimum, the structures, facilities, and equipment for, in the United States, roads, highways, and bridges, public transportation; dams, ports, harbors, and other maritime facilities; intercity passenger and freight railroads; freight and intermodal facilities; airports; water systems, including drinking water and wastewater systems; electrical transmission facilities and systems; utilities, broadband infrastructure; and buildings and real property.”

As the federal government provides financial assistance to a huge array of projects from roads to schools to national parks to constructing buildings of every size, the Build America, Buy America Act is clearly an inclusive and comprehensive policy.

It goes on to define “project” as “any activity related to the construction, alteration, maintenance, or repair of infrastructure in the United States and “assistance” as “assistance that non-Federal entities receive or administer in the form of grants, cooperative agreements, non-cash contributions or donations of property, direct assistance, loans, loan guarantees, and other types of financial assistance.” Non-federal entities include states, local governments, territories, Indian tribes, institutions of higher education (IHE), and nonprofit organizations.”

The Memo also specifies that “A Buy America preference applies to an entire infrastructure project, even if it is funded by both Federal and non-Federal funds under one or more awards.”



Analysis

In a very real sense, paper is like air: It's all around us, and we can sometimes overlook it or take it for granted. Often, projects will start with an award that is issued in writing. Reports will need filing and letters written. A project may have blueprints issued or reviewed on paper. Progress reports, incident reports, accident reports, and evaluations use paper.

Public notices, brochures, and other communications with affected parties are delivered by paper to maintain equity within communities that have less access to the Internet.

In a very real sense, paper is like air: It's all around us, and we can sometimes overlook it or take it for granted. Paper is a part of every infrastructure project, as it should be.

Paper is enmeshed in every infrastructure project. But it is important to realize that the law not only affects the infrastructure projects directly. Even if infrastructure is not the primary objective of an assistance award—and even if the assistance is only a small part of the financial element—the preference to Buy American is still in effect.

In addition to staying on the right side of Buy American laws, buying American paper has economic, environmental, and social benefits. As we have seen in the last two years, international supply chains are less reliable. They can cause enormous disruption, straining buyers, printers, and end users, causing cycles of lay-offs and project delays. We have little to no control over foreign economies and prices, which are subject to international conflicts, natural disasters, and humanitarian crises. The dollar is strong now, but that can—and will—change.

There are also social issues to consider: Prices are higher in the U.S. than in the developing countries that produce the majority of our paper imports because of environmental and forest stewardship regulations that we adhere to, which limit deforestation. Domestic wages are higher, and baseline labor laws protect workers of all types.



Recommendations

What information can the conscientious paper buyer rely on in this blizzard of new regulations and contract opportunities? We think the safest position to assume is that there is a Buy American preference if the project is in any way associated with government financial assistance.

The federal government is now providing financial assistance to industries and projects at a bewildering pace, from wastewater to affordable housing, from HVAC to the arts. What information can the conscientious paper buyer rely on in this blizzard of new regulations and contract opportunities?

We think the safest position to assume is that there is a Buy American preference if the project is in any way associated with government financial assistance.

Paper buyers know that a [large percentage of paper](#) sold in the United States is actually [imported](#) from China, Indonesia, India, South Korea, Canada, Finland, Sweden, Mexico, and Brazil. Clearly, foreign-manufactured paper will not meet the requirements of Buy America laws.

We see several straightforward ways to ensure American-made papers will be used in government-assisted projects.

1. Identify paper manufacturers who only produce their products in the United States and will certify to this effect.

2. Identify paper manufacturers with both American and foreign manufacturing capacity who will certify that specific products are made in America. Just because paper is bought in the U.S. does not mean it has been manufactured in America.

3. Only resell foreign-made paper products to parties who certify that none of the funds for the projects in which the paper will be used came from the federal government or from parties to which the federal government provided financial assistance. Obviously, this third option would be extremely difficult to parse in most cases.

These policies to support domestically manufactured paper products ensure that there is diversity in your supplier portfolio, and also ensures that domestic manufacturers remain viable. In short, we support the current requirement to source domestically produced paper for projects funded even partially by the federal government and perhaps only in a small way classified as infrastructure. And the very most straightforward route, as we see it, is to *buy and sell American-made paper at every opportunity.*