

# 2009 American Recovery and Reinvestment Act (ARRA) Buy American Compliance

## What is Buy American?

Buy American provisions are outlined in Section 1605 of the 2009 ARRA (stimulus funding) and apply to ConserFund Plus Loans due to the funding stream containing ARRA monies. The provisions state that all of the iron, steel, and manufactured goods used in the project must be produced in the United States.

### What manufactured goods does it apply to?

Goods that become a fixture of the building, or permanent part of the property including, but not limited to, HVAC equipment, lighting fixtures, or solar panels.

### How do I know if the goods fulfill the requirement?

The manufactured goods must be domestically manufactured, which means they must have been substantially transformed in the United States to possess different properties than the individual raw components. No requirements exist regarding the origin of the components or subcomponents, or the location or origin of the parent company.

### What constitutes substantial transformation?

Please see the diagram located on the back of this sheet to determine substantial transformation.

Substantial transformation is not:

- Any part of the design, R&D, planning phase of production
- Solely cosmetic or surface changes (painting, lacquering, cleaning)
- Solely cutting a material to length or width

### What if I can't find any domestically manufactured goods or they're too expensive?

The effect of Buy American on project costs will depend on the manufactured goods in the project. However, if you find that the inclusion of domestic goods will increase the cost of the overall project by more than 25%, or are unable to find domestically produced versions of the goods, contact the Energy Office at 803-737-0804.

**NOTE:**  
The North American Free Trade Agreement (NAFTA) very rarely applies to this version of Buy American requirements.

### My organization needs to bid out the work. How do I make sure I get compliant goods?

The Energy Office recommends including a requirement for the offeror 1) to supply ARRA 2009 Buy American compliant goods and 2) to provide sufficient evidence that they've been substantially transformed in accordance with this version of Buy American in the RFP/bid document. We also recommend strong language reminding bidders that NAFTA and standard Office of Management and Budget Buy American requirements are different from 2009 ARRA Buy American requirements, and do not apply.

### What if the materials used are not Buy American compliant?

The Energy Office is required to comply with U.S. Department of Energy (USDOE) directives and will not be able to disburse funds under a ConserFund Plus loan agreement. While we encourage you to verify that the goods you plan to use comply with ARRA Buy American requirements before the project begins, it is possible to convert your ConserFund Plus grant/loan to a ConserFund loan (relinquishing the 30% grant portion) after project approval.

 **More information can be found in [USDOE's Frequently Asked Questions about Buy American Provisions](#)**

Were all of the components of the manufactured good manufactured in the United States, and were all of the components assembled into the final product in the U.S.?

YES

NO

Was there a change in the physical and/or chemical properties or the characteristics of the finished good designed to alter its functionality?

YES

NO

Did the manufacturing or processing operation result in a change of a product(s) with one use into a product with a different use?

YES

NO

Did the manufacturing or processing operation result in the narrowing of the range of possible uses of a multi-use product?

YES

NO

Pick at least 2:

- Did the process(es) take a substantial amount of time?
- Was/(were) the process(es) costly?
- Did the process(es) require particular high-level skills?
- Did the process(es) require a number of different operations?
- Was substantial value added in the process(es)?

YES TO AT LEAST TWO

NO

This good is manufactured in the U.S., and the inquiry is complete. You must provide written documentation of your claims made above.

This good is not substantially transformed in the U.S. Please call the Energy Office at 803-737-0804 for more information regarding exceptions in cases of goods that are:

- cost prohibitive when compliant; or
- have no reasonable alternative that is compliant