



June 2, 2021

WHAT YOU NEED TO KNOW ABOUT

Biden's Buy America Policy

PRO POINTS

- **President Joe Biden signed an executive order in January that aims to make it tougher for federal agencies to purchase products and materials from foreign companies when a U.S. alternative is available.**
- **That same executive order also called on federal procurement officials to revamp the government's definition of an American-made product, a move that could prompt some industries to do more high-value manufacturing in the U.S.**
- **Critics assert that changes to the Buy American rules will have little impact on taxpayer dollars flowing to U.S. firms and could force the government to pay more for products. Significant trading partners, including Canada and the European Union, have also expressed concerns about U.S. protectionism.**

HOW WE GOT HERE

Presidents have sought to harness the federal government's purchasing power to spur U.S. business since Herbert Hoover signed the Buy American Act on his last full day in office in 1933.

Donald Trump initiated four Buy American-related executive orders during his tenure that pressed federal agencies to purchase more goods produced in the U.S. and raised the percentage of a product that must be made in U.S. to qualify as American-made. Biden revoked three of those orders days after taking office.

Biden replaced Trump's orders with Buy American changes of his own. An executive order on Jan. 25 established the Made in America Office to evaluate requests from federal agencies seeking to bypass requirements and purchase products from foreign firms. That office will unveil a website where those waiver requests are made public.

The president also suggested recalibrating how the government determines which products are considered American-made to account for how much value is added in the U.S. That means products' most expensive parts — think the engine on a car — may need to be manufactured domestically to meet the threshold. The Federal Acquisition Regulatory Council has been tasked with drafting those measures.

The executive order followed Biden's campaign-trail promises to make the government's Buy American requirement "real" and also spend billions of dollars on infrastructure and clean energy to boost U.S. manufacturing. The vehicle for those investments — the sweeping American Jobs Plan — is now being negotiated with Congress. During a joint address to lawmakers on April 28, Biden cited "one principle" guiding the plan: "Buy American."



Biden vs. Trump: Buy American Edition

President Joe Biden and his predecessor, Donald Trump, aimed to bolster manufacturing by directing changes to the government's Buy American requirements, which stipulate that federal agencies should spend their money with U.S. firms. Here's a breakdown of how Trump's actions compare with what Biden has done so far.

	 BIDEN	 TRUMP
On the campaign trail	Biden repeatedly promised to close loopholes in the Buy American program and to jolt American manufacturing with major infrastructure spending.	Trump pledged to resurrect U.S. manufacturing jobs and laid the groundwork for his first executive order, called "Buy American and Hire American."
Number of Buy American-related executive orders	1 	4 
Most tangible change	The order established a Made in America Office within the Office of Management and Budget to oversee Buy American requirements across government and to monitor agency requests to make purchases from foreign companies.	Shortly before leaving office, the administration increased domestic content requirements for "American-made" products to 55 percent for manufactured goods and 95 percent for iron and steel. It was previously 50 percent for all items.
Lasting impact	Biden has proposed shifting how the government defines "American-made" to account for the value added to a product during U.S. production. Those specific regulations have yet to be released.	Manufacturing advocates say there was little follow-through on most of Trump's executive orders. Three of them were revoked after Biden took office.

Sources: Getty Images, POLITICO staff reports



WHAT'S NEXT

Biden tapped Celeste Drake, a trade specialist with a union background, to lead the Made in America Office in late April. Her initial responsibilities under the order include establishing a process for agencies to request Buy American waivers and debuting a website where those will be published.

Meanwhile, the Federal Acquisition Regulatory Council has until July to consider proposing a replacement for the government's current "component test" that assesses products as American-made based on the percentage of them produced in the U.S. Biden wants so-called "domestic content" to instead be "measured by the value that is added to the product through U.S.-based production or U.S. job-supporting economic activity."

The president also directed the council to propose increasing the threshold for how much domestic content must come from the U.S. and increasing the price preferences for domestic products — a rule that allows agencies to buy American-made goods even if cheaper foreign options are available.

The kind of made-in-America policies that Trump and now Biden champion have been criticized by some economists, such as those at the Peterson Institute for International Economics. They argue that the government is shuffling jobs rather than creating new ones, at a high cost to taxpayers.

Industry groups similarly assert that Buy American reforms have little impact on the domestic economy, in part because the overwhelming majority of government funds already go to U.S. firms. That means tightening the rules has minimal impact, even if the federal government is the world's largest buyer.

Most government spending is already buying American-made products

President Joe Biden has pledged to rely heavily on taxpayer-funded projects to revitalize the American manufacturing sector, especially for trillions of dollars in spending promised under the "Build Back Better" agenda. But the majority of government expenditures are already for products made in America.

The U.S. Chamber of Commerce and other business groups estimate that American-made products already accounted for nearly 97 percent by value of \$2.35 trillion worth of government spending from 2015 to 2020.



Less than 1 percent of the more than 85 million contracts signed during that period went to foreign firms, and nearly all of those were Department of Defense contracts that went to U.S. affiliates of British or other European firms.



Source: U.S. Chamber of Commerce

The U.S. Chamber of Commerce and other business groups estimated in January that 97 percent, by value, of the \$2.35 trillion that the federal government spent from 2015 to 2020 went to U.S. firms. The vast majority of foreign companies that won contracts were U.S. affiliates of British or European firms fulfilling Defense orders, the groups said.



Piling on the criticism are some of the United States' closest trading partners. Canada has long-held concerns about American firms getting preferential treatment, and trade minister Mary Ng raised the issue in a meeting with U.S. Trade Representative Katherine Tai on May 17. The Europeans are not fans, either, and are moving forward with measures designed to boost the continent's own industry.

The bigger boon to U.S. industry could come from Biden's American Jobs Plan, should it clear Congress. The legislative package could funnel billions of dollars into infrastructure projects, electric vehicles and other investments, and there is past precedent for trying to direct that money to U.S. firms.

In 1982, Congress first enacted provisions known as Buy America that required infrastructure projects receiving federal funds to use construction materials from U.S. firms as a way of amplifying the government's purchasing power. And in 2009, the American Recovery and Reinvestment Act contained specific Buy American stipulations.

POWER PLAYERS

- **Celeste Drake, Made in America director, Office of Management and Budget:** Drake has been tasked with implementing Biden's executive order to ensure that U.S. businesses reap the benefits of government spending. A trade policy specialist, Drake was appointed in late April after working for the Directors Guild of America and the AFL-CIO.
- **Biden's pick for OMB director:** The director of the Office of Management and Budget will be Drake's boss and will have direct influence over Buy American initiatives. But Biden has yet to name a new nominee after his first pick, Neera Tanden, withdrew in early March.
- **Mathew Blum, acting administrator, Office of Federal Procurement Policy:** Blum is temporarily at the top of the Office of Federal Procurement Policy, and that makes him the current chair of the Federal Acquisition Regulatory Council. Blum is a longtime presence in the office, which regulates how the government buys goods and services.
- **Mary Ng, trade minister, Canada:** Canada has been a vocal critic of the Biden administration's Buy American policies, raising concerns that they disadvantage Canadian firms. Ng has raised the issue in multiple meetings with her counterpart, U.S. Trade Representative Katherine Tai.
- **Scott Paul, president, Alliance for American Manufacturing:** Union workers and manufacturers have influence within the Biden administration, and Paul's organization sits at the intersection of both. His alliance's main mission is to press national leaders to prioritize American-made products, and it is already urging Biden to act boldly.
- **Sen. Shelly Moore Capito (R-W.Va.):** As Senate Republicans' chief negotiator with the White House, Capito has championed an infrastructure package focused on traditional projects like roads, bridges and ports. She will have a key hand in shaping any bipartisan agreement and its Buy American requirements.