

Trump Signs Executive Order to Strengthen Buy American Preferences for Infrastructure Projects

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On January 31, President Donald J. Trump signed Executive Order 13858 entitled [Strengthening Buy American Preferences for Infrastructure Projects](#). The Order is designed to strengthen the “Buy American principle” for Federal infrastructure spending by encouraging Federal funding recipients to use more American-made products in their infrastructure projects. “By signing this order today, we renew our commitment to an essential truth: It matters where something is made, and it matters very greatly,” said President Trump.

Specifically, the order directs the head of each executive department and agency administering a covered infrastructure program to “encourage recipients of new Federal financial assistance awards to use, to the greatest extent practicable, iron and aluminum as well as, steel, cement, and other manufactured products produced in the United States in every contract, subcontract, purchase order, or sub award that is chargeable against such Federal financial assistance award.” Covered programs include Federal financial assistance for a wide variety of U.S. infrastructure projects, from surface transportation and water infrastructure to broadband and cyber-security.

In addition to encouraging funding recipients to use domestic products in their projects, the new order also requires the head of each agency administering a covered program to identify in a report to the President opportunities to maximize the use of Buy American principles. The reports are due no later than May 31, 2019.

Thursday’s action is an attempt to close potential coverage gaps by extending Buy American principles to more taxpayer-financed federal infrastructure assistance programs. The executive order similarly seeks to expand the application of the Buy America procurement preferences to items not typically subject to existing Buy America laws, which are often limited to iron and steel products and materials. The “manufactured products” specifically identified in the executive order include non-ferrous metals, plastic and polymer materials like pipe, aggregates, glass and lumber.

The White House indicated this strengthened focus could result in billions of U.S. taxpayer dollars being redirected to American manufacturers.

The new Executive Order follows President Trump’s April 2017 “Buy American, Hire American” Executive Order. In touting the benefits of that Executive Order, the White House pointed to a 16 percent reduction in the use of Buy American waivers in 2018 as well as a \$24 billion increase in government spending on U.S.-made products in the President’s first two years in office.

What Should Manufacturers and Suppliers Expect from EO 13858?

Although the Executive Order directs federal agencies to encourage federal assistance recipients to use – to the greatest extent possible – iron, steel and manufactured products in projects receiving the federal assistance, it does not mandate they do so. Agencies have been given 120 days to develop plans, strategies and programs to satisfy the President's goal of encouraging assistance recipients to buy American construction materials. Whether and to what extent agencies devise plans and strategies that do more than merely "encourage" assistance recipients to apply Buy America preferences on federally-aided infrastructure spending remains to be seen.