

## BUY AMERICAN Provision and the American Recovery and Reinvestment Act (ARRA)



The following is in direct reference to BUY AMERICAN Provision and the American Recovery and Reinvestment act (ARRA) Requirements:

### US Code: Title 41, Section 10

*The Buy American Act (often BAA, not to be confused with the Buy America (no "n") Act) applies to all U.S. federal government agency purchases of goods over certain contract thresholds. The BAA restricts purchases of supplies and construction materials to domestic products, unless an exception or waiver applies. Unmanufactured products must be mined or produced in the United States. There is a two-part test for manufactured articles: (1) article must be manufactured in the United States, and (2) cost of U.S. components must exceed 50% of the cost of all components in the item. Note: this calculation does not include labor and overhead for final assembly in the United States. The component cost test is waived for commercial-off-the-shelf (COTS) items. (FAR 25.001(c)(1). BAA waivers may be available, often at the discretion of the contracting officer.*

### ARRA: Section 1605

*ARRA Section 1605 establishes requirements for federal government projects funded with stimulus monies: "None of the funds appropriated or otherwise made available by [the ARRA] may be used for a project for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States." Iron and steel used as components or subcomponents of other manufactured construction materials do not need to be produced in the United States. There is no requirement that components and subcomponents be U.S.-origin provided the manufactured construction material is "produced in the United States." (FAR 25.001(c)(4)) Section 1605 does not contain a domestic cost requirement. However, the government has not defined "produced" for purposes of the ARRA Buy American provision. Many commentators have adopted the "substantial transformation" test to determine whether a manufactured article is "produced" in the United States for purposes of Section 1605. Section 1605 contains a requirement that the Buy American provision be applied in a manner consistent with U.S. obligations under international agreements. As a result, national treatment is extended to products from countries with which the United States has entered a free trade agreement (e.g., Canada, Mexico, Bahrain, Chile, etc.) and to products from countries that have signed the WTO Government Procurement Agreement. National treatment is also extended to least developed countries (LDCs) (e.g., Bhutan, Mali, Zambia, etc.) but not to Caribbean basin countries (e.g., Belize, Haiti, Bahamas, etc.)*



Per above BUY AMERICAN Provisions and ARRA Requirements, Architectural Lighting Works meets or exceeds these standards:

All ALW products are designed and engineered in the United States.

All ALW products are assembled in the United States.

All ALW products are safely tested by Intertek in the USA and labeled as such in our Northern California (Hayward) factory.

All finished product is shipped directly from our Northern California (Hayward) factory.

The Extent of use of foreign components in all of our products is such that within our understanding of the law, we are in compliance with the Buy American Act and ARRA.

For Additional Resources regarding BUY AMERICAN ACT and ARRA, please visit the Federal Government's specific website: <http://www.recovery.gov/Pages/default.aspx>