



# Atlas

★ Lighting Products®



## THE BUY AMERICAN ACT AND THE BUY AMERICAN ACT UNDER ARRA



# DEFINITIONS

## The Buy American Act

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The Buy American Act applies to most federal agencies where the contracts are not being funded by stimulus dollars. The Act requires that the US government give preference to U.S. made products in its procurement process. The government utilizes a two-part test to determine compliance with these requirements<sup>1</sup>:

- The first is domestic material. The government requires that the cost of a product's components mined, produced or manufactured in the United States must exceed 50% of the cost of all its components. Unless this is waived because the item is a commercial off-the-shelf (COTS) product (stock items).
- The second is domestic manufacturing. The government requires that the end product be domestically manufactured.

## The Buy American Act provision under the ARRA

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In an effort to stimulate the American economy by preserving and creating U.S. jobs the American Recovery & Reinvestment Act (ARRA) became effective February 17, 2009. The Buy American Act (not to be confused with the Buy America Act) restricts the purchase of supplies that are not domestic end products that are used in projects (located in the US) using ARRA funding. Under the ARRA there is no requirement that components and subcomponents be of U.S. origin as long as the manufactured construction material is "produced in the United States". The majority of Atlas Lighting Products fixtures are produced in the United States and meet this requirement<sup>2</sup>.

## Exceptions and Waivers for the Buy American Act & Provisions under ARRA

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In certain circumstances a project will qualify for an exception to the Buy American provisions.

There are three exceptions:

- Non availability: Iron, steel, or manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of satisfactory quality;
- Unreasonable Cost: Inclusion of iron, steel, or manufactured goods produced in the United States will increase the cost of the overall project by more than 25%;
- Public Interest: Applying the Buy American provision is inconsistent with the public interest.



<sup>1</sup>Buy American Act (US Code, Title 41, Section 10 (a-d) - [https://www.acquisition.gov/far/html/Subpart%2025\\_1.html](https://www.acquisition.gov/far/html/Subpart%2025_1.html)

<sup>2</sup>Frequently Asked Questions about the Buy American Provisions - [http://www1.eere.energy.gov/recovery/buy\\_american\\_faq.html](http://www1.eere.energy.gov/recovery/buy_american_faq.html)

NOTE: This information is meant to provide a general overview of Buy American and is for informational purposes only and is not intended as and should not be construed as legal advice. If you have questions about the application of any government contract provision, please contact a qualified attorney.

# FREQUENTLY ASKED QUESTIONS

## **Q: What are the Recovery Act Buy American provisions?**

**A:** The Buy American provisions direct that, subject to certain exceptions, no Recovery Act funds 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 or manufactured in the United States.

## **Q: What is a “manufactured good?”**

**A:** According to the regulations published by OMB (Office of Management and Budget) in 2 CFR 176, a manufactured good is a good brought to the construction site for incorporation into the building or work that has been processed into a specific form and shape; or combined with another raw material to create a material that has different properties than the properties of the individual raw materials. There is no requirement with regard to the origin of components or subcomponents in manufactured goods used in a project, as long as the manufacturing occurs in the United States. The OMB Interim Final Guidance requires that the manufactured good be physically incorporated as into the project.

*For example, a crane used to lift items on a construction site would not be considered a manufactured good covered by the Buy American provisions because the crane is not incorporated into the building or public work. Similarly, an energy efficient desktop computer monitor does not become a permanent fixture of the building, and therefore is not “incorporated into” the building. As a result, the monitor does not fit the definition of a “manufactured good” and is not covered by the Buy American provisions. By contrast, a lighting fixture that is brought to the site for incorporation into a building would be covered by the Buy American provisions. The individual parts that go into that fixture, however, would be considered components or subcomponents and would not be subject to the Buy American provisions.*

## **Q: What is a substantial transformation?**

**A:** Substantial transformation is a term used in the definition of a “domestic manufactured good” in the OMB Interim Final Guidance published at 2 CFR 176. In order for a good to be considered produced or manufactured in the United States, it must undergo a substantial transformation in this country.

The factors involved in determining whether substantial transformation has occurred focus on manufacturing, processing, assembly, or integration of the components or subcomponents into a finished good. Design, planning, procurement, component production, or any other step prior to the process of physically bringing together the components into the final manufactured good used in (and incorporated into) the Recovery Act project cannot constitute part of the substantial transformation determination.

## **Q: For a waiver of the Buy American provisions on the basis of unreasonable cost, is the cost increase threshold 25% of the specific product in question or of the entire project?**

**A:** Under Buy American, using domestic products must increase the cost of the total project by 25% to be eligible for a waiver.

# QUALIFYING PRODUCTS

## Wall Lights

### CLASSIC

WL Series, WLSG Series, WLM Series, WLD Series

### INDEPENDENCE

W Series, WSG Series, WM Series, WD Series

### SLIMPAK PRO

WSPS Series, WSPL Series

### WALL PAK PRO

WPS Series, WPM Series, WPL Series



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## Canopy & Parking Garage

### LINEAR

ILW Series

### PARKING GARAGE

PGM Series

### CANOPY

CPM Series, LPC Series

# QUALIFYING PRODUCTS

## Flood Lights

### CLASSIC

PFS Series, PFSXW Series, PFM Series, PFMXW Series, PFL2GH Series, PFL2GXW Series, PFXL2GH Series, PFXL2GXW Series

### HAWK

HSXP Series, HSXW Series, HXP4 Series, HXP6 Series, HW Series

### INDEPENDENCE

FS Series, FM Series



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## Sports Light

### PATRIOT

SPT Series



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## Roadway Light

### CONSTITUTION

RW Series



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## Area Lights

### EAGLE

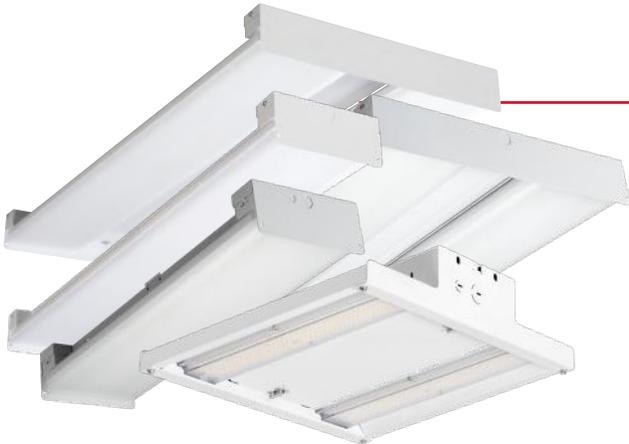
SLPS Series, SLPM Series



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# QUALIFYING PRODUCTS



## Linear High Bays

**CLASSIC**  
ILH Series

**INDEPENDENCE**  
IHB Series

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## Wet Location

**CLASSIC**  
ILW, ILWRK Series

**INDEPENDENCE**  
IVT Series



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## Stairwell Light

**INDUSTRIAL GRADE**  
SWL Series

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**BUILT HERE IN THE USA**



★★★  
**BUY AMERICAN ACT**  
COMPLIANT

**OUR BROAD US-MANUFACTURED PRODUCT  
LINEUP IS BAA COMPLIANT**

Atlas offers a huge selection of BAA Compliant\* LED products that are manufactured in our 330,000 square foot facility in Burlington, NC. These fixtures offer unmatched optical performance, efficiency, and reliability. It's no surprise that government agencies, military installations and contractors continue to choose Atlas products to meet their LED lighting needs.



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Visit [www.atlasled.com](http://www.atlasled.com) or scan QR code for more information, including cut sheets, case studies, installation videos, instruction sheets, savings information, IES files, lighting calculation tools and more.



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