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## Buy America provisions can improve construction lead times — for a price

About one-third of materials used in U.S. projects are made overseas. A make-it-here push would further raise already high costs.

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A reliance on construction materials produced overseas has left U.S. contractors susceptible to long lead times and extreme price volatility, especially since the COVID-19 pandemic slowed global supply chains.

About 32% of building materials come from outside the U.S., according to Marcum, a New York City-based accounting and advisory firm. The top countries the U.S. imports construction materials from include nations in the European Union as well as China, South Korea, Canada and Japan, said Joe Natarelli, managing partner in Marcum's New Haven, Connecticut, office.



Joe Natarelli

Permission granted by Marcum

The main building materials sourced outside of the United States are some of the most foundational materials used in construction. They include:

- Cement.
- Lumber.
- Steel.
- Insulation material.
- Electrical equipment.

This reliance on foreign-made products and materials could soon change, said Barry LePatner, construction attorney and founder of LePatner & Associates, a New York City-based law firm. For instance, new “Buy America” provisions for publicly funded projects will require government-funded projects to use construction materials that are made in the United States.

“It is to be expected that prices for domestically manufactured projects and materials will increase,” said LePatner. “But the assurances of more certain delivery dates will be well worth the time and cost to achieve a greater certainty for project completions.”

### **Challenges of onshoring**

The make-it-here push raises issues for the construction industry and project owners, namely increased expenses. Many building groups have pushed back on the Biden administration’s onshoring initiative, claiming some materials simply aren’t available domestically at any price and will cause even more construction delays.

“Our projects require a very complex mix of materials, some of which are not domestically manufactured,” said Doug Carlson, CEO of the National Utility Contractors Association, in a statement. “Some components are not made in the United States and must be bought overseas to complete a job. Other materials sourced from foreign sources are significantly cheaper and hold down federal government infrastructure expenditures.”

After all, cost savings were the primary reason why much of American manufacturing emigrated overseas decades ago.

“With a ‘build here in North America,’ there is going to be higher costs, higher labor costs, higher technology costs,” said LePatner. “... Prices for things will go up.”

**Increased material prices, limited availability of labor and difficulties in new technology adoption are the main challenges of onshoring, according to a Marcum report on the supply chain.**

High material prices were also recently identified as “the biggest challenge right now for the construction industry,” according to Felice Farber, executive director of the Subcontractors Trade Association, a New York-based association of union

subcontractors. This, despite the fact that historic inflation spurred by the pandemic is finally coming down.

Nevertheless, increased costs may be the price owners and contractors have to pay to ensure stable lead times and to meet federal guidelines, said LePatner.

The White House's Office of Management and Budget recently issued proposed guidance on how to implement the Build America, Buy America Act provision in the Infrastructure Investment and Jobs Act. The Department of Defense also recently increased its domestic content threshold from 55% to 60% through the end of 2023 for components required to be produced within the U.S. That mandate will increase again to 65% from 2024 through 2028, and finally to 75% thereafter.

A silver lining for both contractors and owners is the fact that closer, more predictable sourcing paths will help alleviate common issues that lead to disputes on projects, said Natarelli.

"Dependable lead times would avoid delay penalties and escalation clause expenses," said Natarelli. "It would also give banks and surety companies more comfort in job completion dates."

### **Long lead times linger**

Lead times remain at "unprecedented levels," especially for critical mechanical and electrical equipment, said Richard Kennedy, president and CEO of Skanska USA. Minneapolis-based contractor Mortenson also indicated elongated lead times as a continuing headwind for the construction industry in its latest Construction Cost Index report.

Yet despite the increased urgency to buy construction materials closer to the projects they help build, LePatner said the make-it-here push "will be a slow transition for the next few years" for projects not under federal guidelines.

That's especially true as owners and contractors grapple to find a balanced solution for keeping projects in line while maintaining tighter control over completion schedules. So, during that span, there will remain a reliance on materials shipped from overseas, he said.

"From talking around to a lot of contractors and architects, they're able to still specify products from overseas and are willing to wait a little bit to get cheaper prices," said LePatner. "They know similar products are not readily available reliably here in North America so quickly."