

April 27, 2009

Interim guidance released on Buy America and other Provisions

The U.S. Office of Management and Budget has released an interim guidance that clarifies application of Sections 1605 (“Buy America”), 1606 (“Wage Rates”) and 1512 (“Audit and Reporting) in the American Recovery and Reinvestment Act (ARRA). The public comment period on this interim guidance is open until June 22.

The ARRA prohibits use of recovery funds for a 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. The interim guidance clarifies three exceptions to the Buy America requirement:

- * non-availability (lack of sufficient quantities of domestically-available materials);
- * unreasonable cost (compliance inflates project cost by more than 25 percent); or
- public interest (where application of the domestic preference would be inconsistent with the public interest)

The guidance also covers audit and reporting requirements and the requirements for including Davis-Bacon (prevailing wages) contract clauses in any covered contracts that exceed \$2,000 for construction, alteration or repair. [Click here](#) to view the interim guidance in the Federal Register.