

# BUY AMERICAN ACT: 41 USC 10A-10D

There has been a lot of confusion recently surrounding the term “buy American” and how it pertains to the plumbing and HVAC industry. We need to be clear on the terminology used here. There is the ‘Buy American Act’ and the ‘Buy American Provisions’ in the ‘American Recovery and Reinvestment Act (ARRA)’

The ‘Buy American Act’ was initiated in 1933 as a result of the great depression. It applies to any construction job solicited by the US government. It states:

“Only unmanufactured articles, materials, and supplies that have been mined or produced in the United States, and only manufactured articles, materials, and supplies that have been manufactured in the United States substantially all from articles, materials, or supplies mined, produced, or manufactured in the United States, shall be acquired for public use unless the head of the department or independent establishment concerned determines their acquisition to be inconsistent with the public interest or their cost to be unreasonable<sup>1</sup>.”

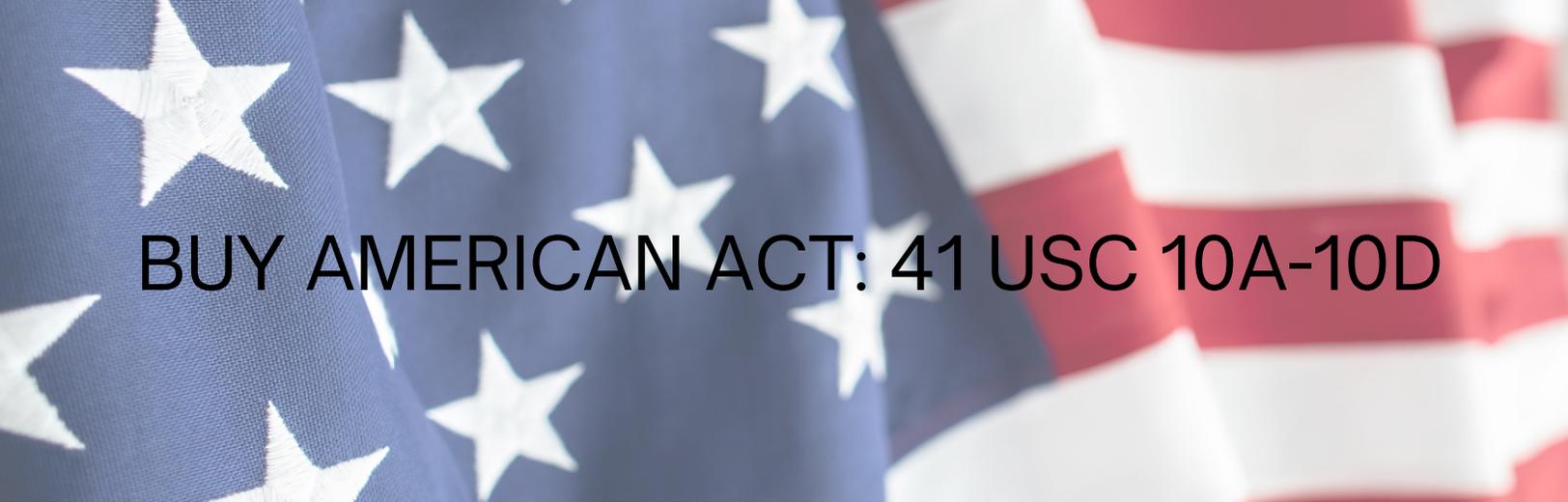
Unless the component is manufactured in the US and at least 50% of the sub-components down to the raw materials used to create the component come from the US, the component will not comply with the ‘Buy American Act’.

The Trade Agreement Act ‘48 C.F.R 52.225-11’ initially enacted on Dec. 27, 1999 waives the ‘Buy American Act’ for eligible products purchased from countries that have signed an international trade agreement with the U.S. Italy has an international trade agreement with the U.S. Therefore, specifically manufactured actuated valves, HCl Packages manufactured by Pettinaroli SpA can be installed on construction job solicited by the US government.

The ‘Buy American Provisions’ in the ‘American Recovery and Reinvestment Act (ARRA)’ was initiated on February 12, 2009 as part of the stimulus package. It applies to any “construction, alteration, maintenance or repair of a public building or public work<sup>3</sup>” funded by the Recovery Act.

A public building or public work is defined as “A building or work of a government entity.<sup>3</sup>”

Clearly there is some overlap between the ‘Buy American Act’ and the ‘Buy American Provision’. If both the act and the provision apply to a job the ‘Buy American Provision’ takes precedence. This was determined by the Federal Acquisition Regulation Council on March 31, 2009.<sup>4</sup>



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The 'Buy American Provision states:

“Infrastructure projects involving construction, alteration, maintenance or repair of public buildings or public works must be accomplished using iron, steel and manufactured goods produced in the United States.<sup>3</sup>”

It goes on to define a manufactured good as:

“A good that is either wholly produced in the United States, or, if it contains materials from another country, has been substantially transformed in the United States into a new and different manufactured good.<sup>3</sup>”

With regards to the components going into a manufactured good:

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“No requirement is extended with regard to the origin of components or subcomponents in manufactured goods used in the project, as long as the manufacturing occurs in the United States.<sup>3</sup>”

So while some (or all) of the sub-components may be made in other countries, HCI packages all comply with the Buy American Provisions of ARRA.

