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Biden signs executive order bolstering ‘Buy American’ provisions

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President Joe Biden signed an executive order Monday aimed at strengthening “Buy American” provisions that encourage the federal government to purchase goods and services from U.S. companies, a move that labor unions and manufacturing supporters cheered but that some critics said could raise costs for the federal government.

Biden, speaking at the White House, cast the move as a first step in what he and his administration have promised will be an aggressive push to steer more federal dollars to U.S. suppliers and to rebuild domestic manufacturing in industries that have dwindled in recent decades.

The order — and the push to bolster U.S. manufacturing — mirrors several Buy American directives issued by Biden’s predecessor in the White House, Donald Trump. But Biden and his allies tried to distinguish his efforts from what they called the failed policies of the Trump administration.

“The previous administration did not take it seriously enough. Federal agencies waived the Buy American requirement without much pushback at all,” Biden said before signing the order. “That is going to change on our watch.”

Supporters of Biden’s order said it would strengthen Buy American requirements far more than Trump’s efforts had, particularly when coupled with another order Biden issued last week to invoke the Defense Production Act to speed the production of coronavirus tests, personal protective equipment and other tools to combat the COVID-19 pandemic.

But they also said the president’s unilateral actions were far less important for bolstering domestic manufacturing than the Buy American rules his administration has promised to include in an infrastructure proposal next month, which is expected to include trillions of dollars in new federal spending.

Biden’s efforts on PPE and Buy American, “coupled with the Defense Production Act, it all works together” to help rebuild domestic supply chains, said Sen. Sherrod Brown, D-Ohio. The infrastructure proposal, Brown said, “is the biggest thing of all.”

Existing law already requires the government to contract with U.S. companies when possible, but there are many exceptions and waiver opportunities that for years have frustrated advocates for small and medium-size businesses.

Previous administrations, including Trump's, have tried to clamp down on the process in the hopes of directing more federal dollars toward an American workforce that sometimes struggles to compete with cheap goods and services imported from abroad. Trump issued several Buy American orders, as recently as this month, before he left office. That order is now paused under a regulatory freeze Biden issued last week.

Some economists and budget policy experts oppose Buy American requirements, saying they raise costs for the federal government and reduce the availability of products it can buy, sometimes causing delays in procurement projects, because in many cases there is not sufficient domestic manufacturing capacity to supply what the government needs.

Scott Lincicome, a senior fellow at the libertarian Cato Institute, said Monday that Biden's order was unlikely to do much to help domestic manufacturers produce more and create jobs.

"There's a legal reality they're going to run into, as the Trump administration did," Lincicome said. "There's also an economic reality. There's only so much global supply chains are going to allow."

Biden said Monday that his order would go further than previous efforts by reducing opportunities for waivers from the Buy American requirements and by tightening standards that would result in fewer federal contracts being awarded to overseas companies.

His aides acknowledged that the changes would take time. Biden's executive order will direct agencies to reevaluate the current Buy American procedures and will set a deadline by which they are required to report their findings back to the White House for consideration.

Biden also said he would create a position at the White House's Office of Management and Budget to oversee the revisions to the requirements, in order to add more accountability to the waiver process.

The order will also require a review of that process. And it calls on the government to examine the way in which a company's "domestic content" is measured in the hopes of closing loopholes that companies use to claim that their goods and services are made in America.

"If an agency wants to issue a waiver saying we are not going to buy an American product, we are going to buy a foreign product, they have to come to the White House and explain it to us," Biden said. "We are going to require waivers be publicly posted. If someone is building a particular vehicle or facility and they are going to buy the following foreign parts, that waiver, the request is going to be posted. Then we will work with small American manufacturers and businesses to give them a shot to raise their hand and say, 'I can do that here in my shop in my town.'"

Democratic senators from the industrial Midwest, including Tammy Baldwin of Wisconsin and Brown, have pushed Biden to act swiftly to reduce the number of waivers and increase transparency in the waiver process. They praised his order Monday and said it was a contrast with Trump.

"It's going to make a very significant difference, in my mind," Baldwin, a longtime proponent of Buy American provisions, said in an interview.

Unlike Trump, she said, Biden was "following up the talk with action."

Union leaders also celebrated the move. The AFL-CIO said the order would lift the economy. Rory L. Gamble, president of the United Auto Workers, said it “commits the vast power of the U.S. government to U.S.-citizen-made products.”