

Buy America

The Buy America Act (23 USC 313 and 23 CFR 635.410) requires that iron and steel products permanently incorporated into projects funded by USDOT must be domestically produced. All manufacturing processes and application of coatings on these materials must take place in the United States. For costs of iron and steel products to be eligible for reimbursement, a certification that those items conform to Buy America must be obtained and made available upon request. It would be prudent to obtain this certification at or before the time of procurement to insure that proper certification can be made. No payment can be given for materials on which proper certification is not obtained. Manufacturers of finished products will typically have to request the certification from the iron or steel providers or mills. In some cases, the certification may be stamped into the product, but more commonly the certification comprises of a printed statement.

There are waivers that can be applied for when certain conditions are met. All waivers must be reviewed by FHWA and published in the Federal Register.

There are a limited number of exemptions from the Buy America Act:

- Projects that use less than \$2500 total of iron and steel products are exempted from this requirement. Dividing a project into segments to keep iron/steel costs under \$2500 per phase or segment is not allowed.
- **Some products which are commonly commercially available to the general public are exempted – this applies to incidental items such as hardware (nail, nuts and bolts) that can be bought off the shelf at a hardware or home improvement store.**

This is a brief and informal summary of Buy America requirements and provisions; for more information, see:

http://www.fhwa.dot.gov/construction/contracts/buyam_ga.cfm

<http://www.gpo.gov/fdsys/pkg/CFR-2011-title23-vol1/pdf/CFR-2011-title23-vol1-sec635-410.pdf>

Manufactured Buy America Requirement - in order for a manufactured product to be considered subject to Buy America, the product must be manufactured predominantly of steel or iron. The FHWA deems a product to be manufactured predominantly of steel or iron if the product consists of at least 90% steel or iron content when it is delivered to the job site for installation. For purposes of applying Buy America and determining whether a product is a steel or iron manufactured product, the job site includes the sites where any precast concrete products are manufactured.

Examples of products that are subject to Buy America coverage include, but are not limited to, the following:

- steel or iron products used in pavements, bridges, tunnels or other structures, which include, but are not limited to, the following: fabricated structural steel, reinforcing steel, piling, high strength bolts, anchor bolts, dowel bars, permanently incorporated sheet piling, bridge bearings, cable wire/strand, prestressing / post-tensioning wire, motor/machinery brakes and other equipment for moveable structures;
- guardrail, guardrail posts, end sections, terminals, cable guardrail;
- steel fencing material, fence posts;
- steel or iron pipe, conduit, grates, manhole covers, risers;
- mast arms, poles, standards, trusses, or supporting structural members for signs, luminaires, or traffic control systems; and
- steel or iron components of precast concrete products, such as reinforcing steel, wire mesh and pre-stressing or post-tensioning strands or cables.

The miscellaneous steel or iron components, subcomponents and hardware necessary to encase, assemble and construct the above components (or manufactured products that are not predominantly steel or iron) are not subject to Buy America coverage. Examples include, but are not limited to, cabinets, covers, shelves, clamps, fittings, sleeves, washers, bolts, nuts, screws, tie wire, spacers, chairs, lifting hooks, faucets, door hinges, etc. (per Memo from FHWA Associate Administrator of Infrastructure to FHWA Division Administrators and Directors of Field Services, dated 12/21/2012)

Automobiles/Mechanized equipment Buy America Requirements - Until such time as FHWA issues a final rule that revised our regulatory policy for Buy America in 23 CFR 635.410 (projected to be in late 2015 or 2016), we need to approve waivers for **all** Federal-aid projects, including vehicle acquisition projects. The quarterly vehicle waiver approvals are granted on the condition that the vehicles were assembled in the U.S.

Since 23 CFR 635.410 does not address automobiles or mechanized equipment (until 2015 or 2016), FHWA is requiring a waiver for all vehicles/mechanized equipment and granted if they were assembled in the US. This is why we ask for the certification prior to submitting our waiver request.