

**SECTION 106  
CONTROL OF MATERIALS**

**106-1.01 SOURCE OF SUPPLY AND QUALITY REQUIREMENTS.** *Replace the BUY AMERICA PROVISION with the following:*

**BUY AMERICA PROVISION.** On projects using federal funds, the Contractor shall comply with the requirements of Public Law No. 117-58, Sections 70901-52 and 23 CFR 635.410, Buy America requirements, and shall submit a completed Material Origin Certificate, Form 25D-60, prior to award of the contract. When the Contractor becomes aware of a change from or error in a previously submitted Material Origin Certificate (Form 25D-60), the Contractor shall submit an updated Material Origin Certificate (Form 25D-60). All construction materials, steel products and iron products which are incorporated into the work, shall be manufactured in the United States except that minor amounts of construction materials, steel products and iron products of foreign manufacture may be used, provided the aggregate cost of such does not exceed one tenth of one percent (0.001) of the total contract amount, or \$2,500, whichever is greater. For the purposes of this paragraph, the cost is the value of the products as they are delivered to the project including freight.

The Contractor shall ensure that all manufacturing processes for each covered product comply with this Buy America Provision. Non-conforming products shall be replaced at no expense to the State. Failure to comply may also subject the Contractor to default and debarment.

Provide a Certificate of Buy America Act Compliance Form 25D-62 from the supplier for each construction material, steel product, or iron product and each component that is manufactured predominantly of steel or iron, prior to incorporating any construction material, steel products, iron products or any components manufactured predominantly of steel or iron into the project. The supplier certifying Form 25D-62 may be the original manufacturer, fabricator, vendor, contractor, or subcontractor; provided the supplier has sufficient control and knowledge of the manufacturing process to accept responsibility and certify full and complete conformance with the certification statement on the form. Provide mill certificates when required by the Engineer. False statements may result in criminal penalties prescribed under AS 36.30.687 and Title 18 US Code Section 1001 and 1020.

Buy America does not apply to construction materials, steel products, and iron products brought to the construction site and removed at or before the completion of the project. Further, it does not apply to construction materials, steel products, and iron products which remain in place at the Contractor's convenience.

The North American Free Trade Agreement (NAFTA) does not apply to the Buy America requirement. There is a specific exemption within NAFTA (article 1001) for grant programs such as the Federal-aid highway program.

Construction Materials

A construction material includes an article, material, or supply other than

1. an item of primarily iron or steel;
2. a manufactured product;
3. cement and cementitious materials;
4. aggregates such as stone, sand, or gravel;
5. or aggregate binding agents or additives

– that is or consists primarily of

1. Non-ferrous metals;

2. Plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables);
3. Glass (including optic glass);
4. Lumber; or
5. Drywall.

For construction materials, manufactured in the United States means the final manufacturing process and the immediately preceding manufacturing stage were undertaken in the United States.

An item that consists of two or more construction materials combined together through a manufacturing process, and items that include at least one construction material combined with another material through a manufacturing process, will be treated as a manufactured product instead of a construction material. Manufactured products that are not predominantly steel or iron are not subject to Buy America requirements.

#### Steel and Iron Products

“Manufactured in the United States” means all manufacturing processes starting with the initial mixing and melting through the final shaping, welding, and coating processes must be undertaken in the United States. The definition of “manufacturing process” is smelting or any subsequent process that alters the material’s physical form, shape or chemical composition. These processes include rolling, extruding, machining, bending, grinding, drilling, etc. The application of coatings, such as epoxy coating, galvanizing, painting or any other coating that protects or enhances the value of steel or iron materials shall also be considered a manufacturing process subject to the requirements of Section 106-1.01, Buy America Provision and of the Buy America Act.

Buy America does not apply to iron ore, pig iron, and processed, pelletized and reduced iron ore.

When steel and iron products manufactured in the United States are shipped to a foreign country where non steel or iron products are installed on or in them (e.g., electronic components in a steel cabinet), the steel and iron is considered to meet the requirements of this subsection.