

Oklahoma Department of Transportation

Buy America (December 2025 Revision)
Construction Control Directive No. **20140620**

January 6, 2026

Scope: To establish the procedures for the Department's monitoring and oversight of the Buy America and Build America Buy America (BA/BABA) requirements defined in the Special Provisions or Standard Specifications and the Code of Federal Regulations (CFR), and to ensure the contractor's compliance with these requirements.

1. Classification of Materials

An article, material, or supply should only be classified into one of the following categories: (1) iron or steel products, (2) construction material, (3) manufactured products, or (4) excluded material. An article, material, or supply should not be considered to fall into multiple categories, except as otherwise provided in Special Provision 106-5(a-e)19 dated 8-20-2025 Subsection 106.01.B(4)(b)(2). A material is solely classified based on its status at the time it is brought to the worksite.

- **Iron or steel products**
 - **Iron or steel products** means articles, materials, or supplies that consist wholly or predominantly of iron or steel or a combination of both.
 - **Predominantly of iron or steel or a combination of both** means that the cost of the iron and steel content exceeds 50 percent of the total cost of all its components. The cost of iron and steel is the cost of the iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings utilized in the manufacture of the product and a good faith estimate of the cost of iron or steel components.
- **Construction Materials**
 - *Construction materials* means articles, materials, or supplies that consist of only one of the items listed in paragraph (1) of this definition, except as provided in paragraph (2) of this definition. To the extent one of the items listed in paragraph (1) contains as inputs other items listed in paragraph (1), it is nonetheless a construction material.
 - (1) The listed items are:

- (i) Non-ferrous metals;
- (ii) Plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables);
- (iii) Glass (including optic glass);
- (iv) Fiber optic cable (including drop cable);
- (v) Optical fiber;
- (vi) Lumber;
- (vii) Engineered wood; and
- (viii) Drywall.

(2) Minor additions of articles, materials, supplies, or binding agents to a construction material do not change the categorization of the construction material.

- **Manufactured Products**

- Manufactured Products means:
 1. Articles, materials, or supplies that have been:
 - i. Processed into a specific form and shape; or
 - ii. Combined with other articles, materials, or supplies to create a product with different properties than the individual articles, materials, or supplies.
 2. If an item is classified as an iron or steel product, a construction material, or a section 70917(c) material under § 184.4(e) and the definitions set forth in this section, then it is not a manufactured product. However, an article, material, or supply classified as a manufactured product under § 184.4(e) and paragraph (1) of this definition may include components that are construction materials, iron or steel products, or section 70917(c) materials
 3. Pre-cast Concrete or Electronics Cabinets
 - i. With respect to precast concrete products that are classified as manufactured products, components of precast concrete products that consist wholly or predominantly of iron or steel or a combination of both shall meet the requirements of Iron or Steel Products.
 - ii. With respect to intelligent transportation systems and other electronic hardware systems that are installed in the highway right of way or other real property and classified as manufactured products, the cabinets or other enclosures of such systems that consist wholly or predominantly of iron or steel or a combination of both shall meet the requirements of Iron or Steel Products.

- **Excluded Materials**

- Excluded Materials means:
 - i. BA/BABA requirements only apply to steel, iron, construction materials and manufactured products that are consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, removed at or before completion of the project. BA/BABA does not apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished project, but are not an integral part of or permanently affixed to the structure.
 - ii. *Section 70917(c) materials* means cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives. See section 70917(c) of the Build America, Buy America Act.
 - iii. FHWA notes that mixtures of excluded materials delivered to a work site without final form for incorporation into a project are not considered manufactured products.

2. Requirements for Iron or Steel Products

Special Provision 106-5(a-e)19 for Buy America requires that the contractor comply with the Buy America provisions of Title 23 CFR 635.410 which states that all manufacturing processes, including the application of a coating, for all steel or iron products permanently incorporated into the project shall have occurred in the United States of America (USA).

“All manufacturing processes” is defined as any process required to change the raw ore or scrap metal into the finished steel or iron product (smelting, rolling, extruding, bending, etc.).

“Coating” is defined as any process which protects or enhances the value of the steel or iron product to which the coating is applied (epoxy, galvanizing, painting, etc.).

The following materials are exempt, unless processed or refined to include substantial amounts of steel or iron material, and may be used regardless of source in the domestic manufacturing process for steel or iron material:

- Raw Materials (iron ore or alloys)
- Scrap
- Pig Iron
- Processed, pelletized, and reduced iron ore material

For recycled steel, only the manufacturing processes to produce steel products must occur domestically beginning at the point where the recycled steel is melted.

Minor miscellaneous steel or iron components, subcomponents, and hardware necessary for encasing, assembling, and constructing the project work are exempt from these Buy America requirements.

While the following items may be considered insignificant or non-structural, they are still subject to compliance with the Buy America requirements:

- Stay in place forms
- Temporary steel sheeting left in place
- Fencing and associated hardware

The Buy America requirements are in effect only on federal projects as identified in the contract documents. Failure to comply with these requirements on a federally funded project will result in withdrawal of federal funds from the entire project.

3. Minimal Use for Iron and Steel

The federal regulations allow a minimal use of foreign steel or iron if the cost of such materials does not exceed 0.1 percent of the total contract amount, or \$2,500, whichever is greater. This threshold applies to the cumulative amount of all foreign steel and iron used on the project. The Contractor must track the amount of incorporated foreign steel and iron throughout the life of a project to ensure the minimal use threshold amount is not exceeded. For purposes of this paragraph, the cost is that shown to be the value of the steel and iron products as they are delivered to the project.

4. Requirements for Construction Materials

The following construction materials must be manufactured in the United States of America. This means that all manufacturing processes for the construction material occurred in the United States of America:

- Non-ferrous metals
- Plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables)
- Glass (including optic glass)
- Fiber optic cable (including drop cable)
- Optical fiber
- Lumber

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- Engineered wood
- Drywall

For non-ferrous metals, certification requires all manufacturing processes, from initial smelting or melting through final shaping, coating, and assembly, occurred in the United States.

For plastic and polymer-based products, certification requires all manufacturing processes, from initial combination of constituent plastic or polymer-based inputs, or, where applicable, constituent composite materials, until the item is in its final form, occurred in the United States.

For glass, certification requires all manufacturing processes, from initial batching and melting of raw materials through annealing, cooling, and cutting, occurred in the United States.

For fiber optic cable (including drop cable), certification requires all manufacturing processes, from the initial ribboning (if applicable), through buffering, fiber stranding and jacketing, occurred in the United States. All manufacturing processes also include the standards for glass and optical fiber, but not for non-ferrous metals, plastic and polymer-based products or any others.

For optical fiber, certification requires all manufacturing processes, from the initial preform fabrication stage through the completion of the draw, occurred in the United States.

For lumber, certification requires all manufacturing processes, from initial debarking through treatment and planning, occurred in the United States.

For engineered wood, certification requires all manufacturing processes from the initial combination of constituent materials until the wood product is in its final form, occurred in the United States.

For drywall, certification requires all manufacturing processes, from initial blending of mined or synthetic gypsum plaster and additives through cutting and drying of sandwiched panels, occurred in the United States.

5. Requirements for Manufactured Products

Manufactured products used and permanently incorporated in this project must be produced in the United States. Manufactured products will

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comply with the Buy America requirements of 23 CFR 635.410 with the following modifications:

- For projects with Federal Funds let after October 1, 2025, produced in the United States, in the case of manufactured products, means the product was manufactured in the United States. FHWA further clarifies that this means the final assembly must occur in the United States.
- For projects with Federal Funds let after October 1, 2026, produced in the United States, in the case of manufactured products, means the product was manufactured in the United States and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product.
- With respect to precast concrete products that are classified as manufactured products, components of precast concrete products that consist wholly or predominantly of iron or steel, or a combination of both, shall also meet the requirements of Subsection 106.01.B(1), "Iron and/or Steel Products." The cost of such components shall be included in the applicable calculation for purposes of determining whether the precast concrete product is produced in the United States.
- With respect to intelligent transportation systems and other electronic hardware systems that are installed in the highway right of way or other real property and classified as manufactured products, the cabinets or other enclosures of such systems that consist wholly or predominantly of iron or steel, or a combination of both, shall also meet the requirements of Subsection 106.01.B(1), "Iron and/or Steel Products." The cost of cabinets or other enclosures shall be included in the applicable calculation for purposes of determining whether systems referred to in the preceding sentence are produced in the United States.

6. Buy America/Build America, Buy America Waiver

If the total value of the non-compliant construction materials and manufactured products is no more than the lesser of \$1,000,000 or 5% of total applicable project costs, BA/BABA does not apply for those products. Iron and steel are still subject to minimal use in accordance with 23 CFR 635.410(b)(4) and 106.01.B(3), "Minimal Use Request for Steel and Iron." The total applicable project costs are defined as the cost of all materials, including iron, steel, manufactured products, and construction materials subject to BA/BABA requirements. The Contractor assumes the responsibility of tracking the costs of the materials and providing the certification for the waiver if applicable.

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For projects identified by the Department as small grants with federal awards less than \$500,000, BA/BABA requirement is waived for all materials.

These waivers are applicable only for projects with federal authorization after August 16, 2023.

7. Compliance with BA/BABA Requirements

The Contractor's responsibility for meeting the BA/BABA requirements is specified in the contract Special Provision related to Subsection 106.01 of the 2019 ODOT Standard Specifications for Highway Construction. The following are requirements for compliance with BA/BABA:

- Prepare a list of materials incorporated in the project with each material classified as an iron or steel product, a construction material, a manufactured product or an excluded other product.
- For each steel or iron product, construction material or manufactured product, the Contractor will be responsible for providing the Department all documentation required to verify that each product complies with BA/BABA.
- The Contractor must provide a completed Material Use Statement and Certification (MDT-1) for each steel or iron product identified in Special Provision 106-5(a-e)19 for BA/BABA. The MDT-1 will include the Mill Test Reports. MDT-1 certification letters must include a statement similar to the following for federally funded projects: "All manufacturing processes for these steel and iron products, including the application of coatings have occurred in the United States of America."
- For Construction Materials, the Contractor must obtain a certification for each construction material that the construction material is compliant with the Build America, Buy America Act provision of 2 CFR 184 and has been manufactured in the United States of America. This certification must be in the Contractor's possession prior to incorporation of the construction material into the project. The Contractor must keep these certifications and supporting documents on file for a period of three (3) years after project completion. The Department or FHWA may review the Contractor's supporting documentation at any time. The Contractor must produce the supporting documentation within five (5) business days of the request.
- For Manufactured Products, the Contractor must obtain a certification for each manufactured product permanently incorporated into the project that the manufactured product was produced in the United States of America in accordance with 23 CFR Part 635.410(c). This certification must be in the Contractor's possession prior to incorporation of the construction material into the project. The Contractor must keep these certifications and supporting documents on file for a period of three (3) years after project completion. The Department or FHWA may review the Contractor's supporting documentation at any time. The Contractor must produce the supporting documentation within five (5) business days of the request.

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In most instances, for iron or steel products, determination of compliance with BA/BABA requirements should be achieved prior to incorporating the product into the work. If not, the Resident Engineer will be responsible for withholding payment for this work until compliance has been determined.

For Construction Materials and Manufactured Products, the Resident Engineer may spot check for compliance with BA/BABA requirements. If the Contractor is unable to produce the documentation, the Resident Engineer will be responsible for withholding payment for this work until compliance has been determined.

8. Preconstruction Conference Discussion

A discussion of the BA/BABA requirements for all steel or iron products, construction materials, and manufactured products permanently incorporated into projects should be included in the preconstruction conference for federally funded projects and cover the following items:

- Contractor shall provide a list of project-specific pay items that are required to meet BA/BABA requirements.
- Required documentation verifying compliance with BA/BABA for each known steel or iron product, construction material or manufactured product at the time of the meeting.
- Minimal use and waivers for construction materials and manufactured products (see Section 3 & 6)
- Change order work involving steel or iron products, construction materials, or manufactured products must be in compliance with BA/BABA and documented similarly to contract work.

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Contractor Responsibility

- Provide a list of project-specific pay items that are required to meet BA/BABA requirements.
- Track the value of incorporated foreign steel and iron throughout the life of a project to ensure the minimal use threshold amount is not exceeded.
- To remove and replace non-BA/BABA compliant material that exceeds minimal threshold, unless a waiver is granted for the use. No claims for contract adjustment (*additional time, money, or both*) will be made because of the non-compliant material.
- After work is completed on the project, submit a list of items in compliance with the Buy America (BA) Act and the Build America, Buy America (BABA) Act. The list shall include all materials permanently incorporated into the project, with a designation indicating whether the item is an iron or steel product, a construction material, a manufactured product, or an excluded other product. In addition to the list, submit a notarized or electronically verified certification signed by the Contractor's authorized agent to the Engineer, with the following information: "I hereby certify that all construction materials furnished to the Oklahoma Department of Transportation for the construction of the above referenced project that are required to be compliant with the the Build America, Buy America (BABA) Act provision of 2 CFR 184 have been manufactured in the United States of America. I further certify that all supporting documentation is on file and will be maintained for a period of three (3) years after project completion. I also hereby certify that all manufacturing processes of all steel and iron products permanently incorporated into this Oklahoma Department of Transportation referenced project, including protective coating, occurred in the USA and are in accordance with 23 CFR 635.410. I also hereby certify that all manufactured products permanently incorporated into this Oklahoma Department of Transportation reference project were produced in the United States of America, in accordance with 23 CFR Part 635.410(c). I further certify that all supporting documentation is on file and will be maintained for a period of three (3) years after project completion."
- The Contractor may maintain this documentation electronically or in paper format. Upon request, the Department, or FHWA, may review the Contractor's supporting documentation to verify compliance with the Buy America provisions at any time. The Contractor shall provide the supporting documentation within five (5) business days of the request. The burden of proof to meet the Buy America provisions rests on the Contractor. If the supporting documentation does not undeniably demonstrate to the Department, or FHWA, that the iron or steel, manufactured products, or construction materials identified in the Certificates of Compliance were produced in the United States of

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America, then such iron, steel, manufactured products, or construction materials will be considered unacceptable and must be replaced at no cost to the Department.

ODOT Responsibilities

Resident Engineer is responsible for ensuring the following:

- The contractor has submitted a notarized or electronically verified certification in accordance with Special Provision 106-5(a-e)19 for Buy America. (See Attachment 1)
- The contractor has submitted a completed MDT-1 with mill test reports when appropriate, for each steel product referenced in Special Provision 106-5(a-e)19 for Buy America.
- Materials Division has approved the MDT-1
- The following has been completed as steel products are brought on site:
 - Compare the steel products and the bill of laden/invoice to the MDT-1 to ensure the material type, quantity, and source of the steel products match.
 - For reinforcing steel bars delivered to the project site, compare the bar markings on the bars with the photographs located on the Materials Division website to verify the steel reinforcing bars are from an approved mill located in the United States of America.
 - Document in the Sample Record "Addtl Sample Data" tab and the appropriate AM template in SiteManager when a steel product was checked for Buy America and if the steel products and bill of laden/invoice match the MDT-1.
- The Contractor submits the list of materials and end of project certifications.

Division Auditor is responsible for the following:

- During the Division audit ensure that there is an approved MDT-1 form for each steel product referenced in Special Provision 106-5(a-c)19 for Buy America.

Materials Engineer is responsible for the following:

- Review and recommend acceptance for submitted MDT-1 forms with required material test reports for each steel product identified in Special Provision 106-5(a-e)19 for Buy America. Distribute notifications to the Resident Engineer and the contractor for all approved and rejected MDT-1.

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