

From Brenda O'Brien, Engineer of Construction and Technology

MDOT-Construction and
Technology Division
P.O. Box 30049
Lansing, Michigan 48909
Phone/517-322-1087
Fax/517-322-5664
www.michigan.gov/mdot/

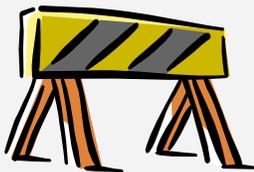
Index: Documentation

Questions regarding this
Construction Advisory should
be directed to:

Chad Teachout, Materials
Control Analyst, at
517-322-5665 or
teachoutc@michigan.gov

Or

Mohammad Azam,
Operations Review Engineer,
at 517-636-0832 or
azamm1@michigan.gov



BJO:CR

Materials Acceptance Criteria – Buy America

This construction advisory is to provide assistance with the materials acceptance documentation requirements in contracts that contain the Special Provision for Source of Steel and Iron (03SP105(A)), and Subsection 105.10 of the 2003 Standard Specifications for Construction.

The Buy America regulations require the use of domestic steel and iron in all federally funded highway construction (including local agency and transportation enhancement projects) where the material is permanently incorporated into the project. Buy America covers all foreign steel and iron materials and products, regardless of the percentage they comprise in a manufactured product or the form they may take. This also applies to steel and metal material used as a minor component with other manufactured products, e.g. reinforced concrete pipe.

Material Criteria

The engineer should use the *Documentation Guide (Minimum Acceptance Requirements for Materials Approvals and Documentation)* to assist in item cross-referencing the requirements for the Buy America contract provision. The guide is available on the Web at:

http://www.michigan.gov/documents/mdot/MDOT_DocumentationGuide_328761_7.pdf

Waivers

The contractor may request a waiver on certain materials for contract items of work. The engineer should use the criteria described in Subsection C-104 of the FHWA *Michigan Operations Manual*, to determine whether the request is valid to warrant further consultation with the FHWA area engineer and Michigan Division. The engineer should be aware that waivers are sometimes granted; however, it is on a project case-by-case basis. The consideration of a cost savings approach for the differential between domestic and foreign products is not typically supported by FHWA as grounds for a waiver.

Approval Authority

The engineer will coordinate the waiver review with their chain of custody, including their FHWA area engineer, on whether an item should be subsequently processed through the FHWA Michigan Division. It is important to note: **The engineer does not have the approval authority to waive any of the Buy America requirements delegated to the department for any federal-aid funded contract. All approvals must be obtained from the FHWA Michigan Division Office.**

Compliance

The practice of making otherwise federal-aid eligible items non-participating (state or local agency funded) to circumvent the Buy America requirements is unacceptable and should not be approved in federal-aid projects. The engineer must make every effort to be in full compliance. The engineer must secure the necessary manufacture certification paperwork from the contractor to meet the contract requirements for the Buy America provisions prior to making payment for the items of work.