

Design Advisory

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Index:
2012 Standard
Specifications for
Construction, MDOT
website.

*This advisory is
superseded by any
subsequent revisions to
the references listed in
this index.*

Questions regarding this
Design Advisory should
be directed to:

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Buy America

The Michigan Department of Transportation (MDOT) and the Federal Highway Administration (FHWA) have partnered to address compliance with Buy America (23 CFR 635.410) requirements on all state and local projects that include federal-aid funding. Investigation of compliance must be performed in the design phase, as early as possible.

Work items and materials specifically shown on the MDOT - Buy America Requirements, Pay Items and Materials that Require Step Certification (effective for projects let on and after November 2, 2012) list that are permanently incorporated into the project, regardless if they are defined as temporary or not, must meet the requirements in the Special Provision for Source of Steel and Iron (Buy America). The MDOT step certification list can be found at the following website: http://www.michigan.gov/mdot/0,1607,7-151-9622_11044_11367---,00.html. Non-standard pay items similar to those on this list and covered by a special provision must also meet the requirements in the Special Provision for Source of Steel and Iron (Buy America). Designer's attention is also directed to the notes as provided on the step certification list.

Miscellaneous steel or iron components, subcomponents and hardware necessary to encase, assemble and construct the above components (or manufactured products that are not predominantly (90 percent) 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.

A minimal amount of materials not made in the United States is permitted on a project by project basis. The total value of foreign material allowed in a project is limited to \$2,500.00 or 0.1 percent of the total construction contract cost, whichever is greater. Therefore, it is not the intention of this advisory that a 100 percent Buy America compliant product, with no foreign steel/iron, be found for every pay item. If an item is found containing a minor amount of foreign steel/iron, that amount must be taken into account on a project wide basis. For projects with multiple work types (road, bridge, signals, ITS, etc.), it is imperative that all designers collaborate to ensure this requirement can be met.

Buy America compliance notations have been summarized on the MDOT Buy America - Compliance Listing for Approved Manufacturers, Qualified Product List, and Tested Stock Suppliers. The notations will indicate the level of compliance with the Buy America requirements. The value of foreign steel/iron portions of those products that are not fully compliant with Buy America must be taken into account. The foreign steel/iron value for those products noted as containing foreign steel/iron can be provided by CFS. These products can still be considered for use but they will need to be evaluated by the prime contractor as falling under the minimal monetary amount for foreign steel/iron materials.

When only one manufacturer of an item is found to meet Buy America requirements, the sole source approval process must be followed.

In the event that Buy America compliance cannot be achieved for a project, the Project Manager must coordinate with Construction Field Services to request a waiver. All waivers are item and project specific, and must be secured from FHWA prior to turning the project in for advertising. Waivers, (if granted), are on a project by project basis, and no blanket waivers for specific items will be granted. Please note that the waiver process will require a minimum of six months for procurement with longer durations likely to transpire.

Documentation pertaining to the investigation of Buy America requirements should consist of e-mails and letters from manufacturers and/or suppliers. The Project Manager shall place this information in the supporting documents folder in ProjectWise.

Beginning with the February 1, 2013, letting, Project Managers will be required to state on the Certification and Acceptance form that steel and iron material incorporated in the design of the project can meet the requirements of 23 CFR 635.410 (Buy America).

For local agency projects, the Local Agency Programs staff engineer will follow the procedure as outlined in the document titled "MDOT Local Agency Programs Buy America-Quality Assurance Process".