



# Construction Policy Bulletin

## CPB 14-2 Buy America Provisions for Steel and Iron Materials

References: 2010 *Standard Specifications* Section 6-2.05C, “Steel and Iron Materials (23 CFR 635.410)”  
2010 revised *Standard Specifications* Section 6-2.05C, “Steel and Iron Materials, ”  
*Construction Manual* Section 3-606A, “Buy America Requirements”

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Approved:

  
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Division of Construction

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## Background

In the past, Buy America specifications for steel and iron materials have only applied to construction contracts funded with Federal Highway Administration (FHWA) funds, commonly referred to as federal-aid contracts. Section 1518 of the Moving Ahead for Progress in the 21<sup>st</sup> Century Act broadened Buy America to include non-federal-aid contracts. Buy America requirements now apply to all contracts within the scope of the National Environmental Policy Act (NEPA) if at least one contract for a given project is funded with federal funds. According to NEPA, a project may be made up of multiple contracts, including utility relocation contracts. If any contract in a project that is within NEPA’s scope receives federal funding, Buy America applies to all the contracts in the project, regardless of whether the particular contract uses federal funding.

Based on the change to Buy America regulations, Caltrans determined that all state highway contracts will include Buy America requirements for steel and iron materials, regardless of funding source. Caltrans issued a revised standard specification to require Buy America in contracts advertised after April 2013. The Division of Design and the Division of Right-of-Way and Land Surveys have been working with the utility industry and local agencies to ensure that utility relocation agreements and contracts signed after December 31, 2013 include the Buy America provisions.

On December 21, 2012, FHWA issued a memorandum clarifying Buy America requirements regarding manufactured products that have steel or iron components. The FHWA memorandum and other Buy America information is available at:

<http://www.fhwa.dot.gov/construction/cqit/buyam.cfm>

### **Existing Procedure**

Section 3-606A, “Buy America Requirements,” of the *Construction Manual* identifies the policies and procedures to apply in administering Buy America specifications on applicable federal-aid contracts. For on-going construction contracts, do not issue a change order to add Buy America provisions if the contract has no federal funding.

### **New Procedure**

All projects with ready-to-list dates after April 19, 2013 include the Buy America revised standard specification, regardless of the project funding type. Projects containing Buy America provisions for steel and iron materials will continue to be administered in conformance with Section 3-606A, “Buy America Requirements,” of the *Construction Manual*, as supplemented by the following:

Application of Buy America provisions to manufactured products will conform to FHWA’s December 21, 2012 clarification memorandum. Specifically, for a manufactured product to be subject to Buy America, the product must be manufactured predominantly of steel or iron. FHWA has defined “predominantly” in this usage as at least 90 percent steel or iron content when it is delivered to the job site for installation.

For on-going construction contracts:

1. Do not issue a change order to add or delete Buy America provisions if the contract has no federal funding
2. Any utility relocation agreements and contracts signed after December 31, 2013 must include Buy America provisions

After reviewing the FHWA website shown above, if you still have questions concerning Buy America requirements for specific items or components, contact your Division of Construction coordinator or FHWA field engineer.

If you have any questions or comments regarding this bulletin, please contact Jim Cotey, Division of Construction, at [Jim\\_Cotey@dot.ca.gov](mailto:Jim_Cotey@dot.ca.gov) or (916) 227-5709.