



INDIANA DEPARTMENT OF TRANSPORTATION

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Eric Holcomb, Governor
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April 17, 2020

CONSTRUCTION MEMORANDUM 20-06

TO: District Deputy Commissioners
District Construction Directors
District Technical Services Directors
District Area Engineers
District Project Management Director
Project Management Director
District LPA Coordinators
Project Engineers/Supervisors
Field Engineers

FROM: Greg Pankow, Chief Engineer of Construction 
Division of Construction Management and District Support

SUBJECT: Buy America Requirement Clarification Supplemental Instructions

The purpose of this memo is to further clarify the Buy America requirement of Standard Specifications 106.01(c) and describe the process for minimal use. In short, the Buy America requirement applies to the incorporation of domestically purchased steel into permanent construction work rather than foreign made steel and is described by Indiana Code 5-16-8 and US Code of Federal Regulations 635.410. Consequently, a Buy America Certification must be submitted by the Contractor and received for each product or source of material prior to being incorporated into the contract in accordance with Standard Specifications 916.02(g) and 916.03(a). Contractors should account for the use of only domestic steel at the time of bid.

Indiana code has a provision for insufficient supply of domestic steel. CFR provides for a minimal amount of foreign incorporated steel. The CFR states that the total cost of all foreign source products used in the contract, as delivered to the project site, is less than \$2,500 or one-tenth-of-one-percent of the total contract amount, whichever is greater. Therefore, the Department may elect to use the minimal foreign steel regulation at its discretion. In other words, the Contractor shall not dictate the utilization of the minimal amount.

Field personnel should work together with both Contractors and Manufacturers to attain a Buy America compliant product and certification or find a domestic equivalent substitution. Once all options are exhausted, field personnel shall have a Buy America Minimal Use Form completed by the Contractor and

submit it to their respective Area Engineer. A fillable form will be made available by the Department. Thereafter, the AE and respective Field Engineer will review and determine if the foreign material is acceptable for use as described previously. If the request is approved, field personnel shall submit the form to their respective District Testing Engineer as backup documentation for material acceptance.

Any questions should be directed to your Construction Management Field Engineer.

GGP/ddh