FORM Q  
  
BUILD AMERICA, BUY AMERICA CERTIFICATION

(To be signed by authorized signatories of Proposer)

Proposer shall comply with the requirements of 23 U.S.C. § 313 as amended by the Build America, Buy America Act (under the Infrastructure Investment and Jobs Act/Bipartisan Infrastructure Law, Pub. L. 117-58, Nov. 15, 2021), and the federal regulations under 23 C.F.R. § 635.410, 2 C.F.R. § 200.322(c), and 2 C.F.R. § 184. Capitalized terms used, but not defined, have the meanings ascribed in the RFP issued by INDOT on October 24, 2024 to design and construct the Project pursuant to the DBA.

23 C.F.R. § 635.410 permits federal financial assistance in the DBA only if (a) all iron and steel used in the Project is produced in the United States (i.e., all manufacturing processes, from the initial melting stage through the application of coatings, to occur in the United States); (b) all manufactured products[[1]](#footnote-2) used in the Project are produced in the United States (i.e., the manufactured 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[[2]](#footnote-3), unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation); and (c) all construction materials[[3]](#footnote-4) are manufactured in the United States (i.e., all manufacturing processes for the construction material occurred in the United States and satisfy the material-specific requirements set forth in 2 C.F.R. § 184.6); provided, however, that the following exceptions shall apply:

1. iron and steel where all manufacturing processes did not occur in the United States may be used so long as the cumulative cost of such steel and iron materials as they are delivered to the Project does not exceed 0.1% of the total contract amount, or $2,500, whichever is greater;
2. construction materials and manufactured products not meeting the requirements set forth in subsections (b) and (c) above may be used so long as no more than the lesser of (A) $1,000,000, or (B) 5% of total applicable costs for the Project (defined as the total cost of iron and steel, manufactured products, and construction materials used in the Project, whether or not within the scope of an existing waiver);[[4]](#footnote-5)
3. no domestic preference requirements under the statutes and regulations covered by this certification shall be applicable where the total amount of Federal financial assistance applied to the project, through awards or subawards, is below $500,000;[[5]](#footnote-6) and
4. no domestic preference requirements under the statutes and regulations covered by this certification shall be applicable to manufactured products and construction materials in electric vehicle chargers manufactured on or before June 30, 2024, where final assembly of the electric vehicle charger occurs in the United States and installation of the electric vehicle charger begins by October 1, 2024.[[6]](#footnote-7)

The Buy America preference only applies to articles, materials, and supplies 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, brought to the construction site and removed at or before the completion of an infrastructure project. The Buy America preference also does not apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, which are used at or within the finished infrastructure project, but are not an integral part of the structure or permanently affixed to the infrastructure project.

Concurrently with submitting its Proposal, the Proposer shall complete and submit to INDOT a Buy America Certificate and a Build America, Buy America Certificate, each in the format below. After submittal, Proposer is bound by its original certifications.

A false certification is a criminal act in violation of 18 U.S.C. § 1001. Should the Agreement be investigated, Proposer has the burden of proof to establish that it is in compliance.

At Proposer’s request, INDOT may, but is not obligated to, seek a waiver of Buy America requirements if grounds for the waiver exist pursuant to 23 C.F.R. § 635.410(c), as amended by the Build America, Buy America Act (under the Infrastructure Investment and Jobs Act/Bipartisan Infrastructure Law, Pub. L. 117-58, Nov. 15, 2021) and 2 C.F.R. § 184.7. However, Proposer certifies that it shall comply with the applicable Buy America requirements if a waiver of those requirements is not available or not pursued by INDOT.

A certificate of compliance, substantially in the form required under Section 916.03(a) of the Standard Specifications, and in such other forms as INDOT may require, in its sole discretion, shall be furnished for steel and iron materials. The certificates, in addition to certifying that the materials comply with the specifications, shall specifically certify that all manufacturing processes for the materials occurred in the United States, except as for the above exception.

**BUY AMERICA CERTIFICATE**

**Certificate of Compliance**

Proposer hereby certifies, on behalf of itself and all Subcontractors (at all tiers), that Proposer and Subcontractors shall comply with the requirements of 23 U.S.C. § 313 as amended by the Build America, Buy America Act (under the Infrastructure Investment and Jobs Act/Bipartisan Infrastructure Law, Pub. L. 117-58, Nov. 15, 2021), and the Federal regulations under 23 C.F.R. § 635.410, 2 C.F.R. § 200.322(c), and 2 C.F.R. § 184 for this Project.

PROJECT DESCRIPTION: The Safer Drive 65 Project involves reconstruction of added travel lanes along I-65 in Clark and Scott Counties. The Safer Drive 65 Project includes added travel lanes and pavement reconstruction or pavement rehabilitation of I-65 from 0.5 mile north of the Blue Lick Road Interchange (RP 16+27) in Clark County to SR 56 (RP 29+10) in Scott County.

COUNTIES: Clark County and Scott County

Proposer certifies that as required, Proposer will maintain all records and documents pertinent to the Buy America requirement, for not less than three years from the date of Final Acceptance as defined in the DBA. These files will be available for inspection and verification by INDOT and/or the Federal Highway Administration.

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| --- |
| Date:  Signature:  Proposer’s Name:  Title: |

**Certificate for Noncompliance**

Proposer hereby certifies that it cannot comply with the requirements of 23 U.S.C. § 313, as amended by the Build America, Buy America Act (under the Infrastructure Investment and Jobs Act/Bipartisan Infrastructure Law, Pub. L. 117-58, Nov. 15, 2021), and the applicable regulations in 23 C.F.R. § 635.410, 2 C.F.R. § 200.322(c), and 2 C.F.R. § 184, but may qualify for a waiver to these requirement(s) pursuant to the foregoing statutes and regulations, and that Proposer has submitted or will submit, within 15 days after the date of this certificate, a detailed request and rationale for such a waiver.

Proposer acknowledges, agrees, and further certifies that if the foregoing waiver of requirements sought via submission of a timely detailed request and rationale for such a waiver is not available or not pursued by INDOT, then Proposer shall comply with, and cause all Subcontractors of any tier to comply with, the applicable Buy America requirements within the foregoing statutes and regulations and submit, and cause to be submitted, promptly following notice from INDOT to Proposer of such unavailability or intent not to pursue such waiver, a Certificate of Compliance in the form and substance as under this Form Q.

References to sections, exhibits, and attachments thereto are to the “Request for Proposals” issued by INDOT, with respect to the foregoing Project.

Date:

Signature:

Proposer’s Name:

Title:

**BUILD AMERICA, BUY AMERICA CERTIFICATE OF COMPLIANCE FOR CONSTRUCTION MATERIALS**

Proposer certifies that it shall comply with the “BUILD AMERICA, BUY AMERICA” (“BABA”) requirements of the Infrastructure Investment and Jobs Act (“IIJA”), as set forth under Pub. L. No. 117-58, §§ 70901-52, and that all construction materials as defined under BABA furnished for the Project will have been produced in the United States of America.

PROJECT DESCRIPTION: The Safer Drive 65 Project involves reconstruction of added travel lanes along I-65 in Clark and Scott Counties. The Safer Drive 65 Project includes added travel lanes and pavement reconstruction or pavement rehabilitation of I-65 from 0.5 mile north of the Blue Lick Road Interchange (RP 16+27) in Clark County to SR 56 (RP 29+10) in Scott County.

COUNTIES: Clark County and Scott County

Proposer further certifies that as required, Proposer will maintain all records and documents pertinent to the BABA requirements, at the address given below, for not less than three years from the date of Final Acceptance as defined in the DBA. These files will be available for inspection and verification by INDOT and/or FHWA.

Date:

Signature:

Proposer’s Name:

Title: ­­  
  
Address:

1. “Manufactured products” is as defined in 2 C.F.R. § 184.3. [↑](#footnote-ref-2)
2. To be calculated in accordance with 2 C.F.R. § 184.5. [↑](#footnote-ref-3)
3. “Construction materials” is defined in 2 C.F.R. § 184.3 (as affected by section 70917(c)(1) of the Infrastructure Investment and Jobs Act). [↑](#footnote-ref-4)
4. Pursuant to the public interest waiver granted under U.S. Department of Transportation “Waiver of Buy America Requirements for De Minimis Costs and Small Grants” issued August 16, 2023. See <https://www.federalregister.gov/documents/2023/08/16/2023-17602/waiver-of-buy-america-requirements-for-de-minimis-costs-and-small-grants/> for more information. [↑](#footnote-ref-5)
5. Pursuant to the public interest waiver granted under U.S. Department of Transportation “Waiver of Buy America Requirements for De Minimis Costs and Small Grants” issued August 16, 2023. See <https://www.federalregister.gov/documents/2023/08/16/2023-17602/waiver-of-buy-america-requirements-for-de-minimis-costs-and-small-grants/> for more information. [↑](#footnote-ref-6)
6. Pursuant to FHWA public interest waiver “Waiver of Buy America Requirements for Electric Vehicle Chargers” issued on March 23, 2023. EV charger housing components that are predominantly steel and iron are excluded from the waiver and must meet current FHWA Buy America requirements. See <https://www.federalregister.gov/documents/2023/02/21/2023-03498/waiver-of-buy-america-requirements-for-electric-vehicle-chargers> for more information. [↑](#footnote-ref-7)