

**SECTION 101**  
**DEFINITIONS AND TERMS**

**101-1.03 DEFINITIONS.**

*DELETE the definition of *Qualified Products List* and REPLACE with the following:*

**QUALIFIED PRODUCTS LIST.** A list of products that the Department has found conforms to the SSHC, except for Buy America and Alaska Agricultural/Wood Products. The Department makes no guarantee that any product on the *Qualified Products List* meets the requirements of the Buy America Act, Buy America Provision, or Alaska Agricultural/Wood Products.

**SECTION 106**  
**CONTROL OF MATERIAL**

*DELETE Subsection 106-1.01 in its entirety and REPLACE with:*

**106-1.01 SOURCE OF SUPPLY AND QUALITY REQUIREMENTS.** The Contractor shall furnish all materials required to complete the work except those specified to be furnished by the Department. The Contractor shall supply materials that are new and that meet Contract requirements.

The Contractor shall notify the Engineer of proposed sources of materials at least 30 days before shipment, and shall submit to the Engineer and to the Department's State Materials Engineer a complete list of materials to be purchased from suppliers sufficiently in advance of fabrication or shipment to permit the Department to inspect the materials.

The Department's inspectors may inspect any materials, including those originating outside Alaska, at the supply source or other locations. Materials may be conditionally approved at the supply source or other location, but are subject to field inspection and may be ordered removed under Subsection 105-1.11 if they do not conform to Contract requirements. Inspectors are authorized to reject materials that do not conform to specifications. Inspectors will report their actions to the Engineer.

The Contractor shall submit a certificate of compliance for each item listed on the Material Certification List. The Engineer may authorize the use of materials based on a certificate of compliance, see Subsection 106-1.05. Materials incorporated into the project on the basis of a certificate of compliance may be tested at any time, whether in place or not, and, if they do not conform to Contract specifications, they may be rejected and ordered removed under Subsection 105-1.11.

The Engineer may authorize the use of materials listed in the Department's *Qualified Products List*. Materials incorporated into the project on the basis of the *Qualified Products List* may be tested at any time, whether in place or not, and, if they do not conform to Contract specifications, they may be rejected and ordered removed under Subsection 105-1.11.

The Contractor may request substitution of specified materials with equivalent materials. Requests for substitution shall be submitted to the Engineer, and shall include a manufacturer's statement that certifies, for each lot delivered:

1. Conformance to the specified performance, testing, quality or dimensional requirements; and
2. Suitability for the use intended in the Contract work.

The Engineer will determine the acceptability of a proposed substitute for use in the project. If a substitute is approved, a Change Order will be executed. The Department is never required to accept substitution. The Contractor shall not incorporate substitute materials into the project without written approval from the Engineer. The Engineer may test substitute materials at any time, whether in place or not, and, if the substitute materials do not meet Contract specifications, they may be rejected and ordered removed under Subsection 105-1.11.

**BUY AMERICA PROVISION.** On projects using federal funds, the Contractor shall comply with the requirements of 23 CFR 635.410, Buy America requirements, and shall submit a completed Material Origin Certificate, Form 25D-60, prior to award of the contract. When the Contractor becomes aware of a change from or error in a previously submitted Material Origin Certificate (Form 25D-60), the Contractor shall submit an updated Material Origin Certificate (Form 25D-60). All steel and iron products which are incorporated into the work, shall be manufactured in the United States except that minor amounts of steel and iron products of foreign manufacture may be used, provided the aggregate cost of such does not exceed one tenth of one percent (0.001) of the total contract amount, or \$2500, whichever is greater. For the purposes of this paragraph, the cost is the value of the products as they are delivered to the project including freight.

“Manufactured in the United States” means all manufacturing processes starting with the initial mixing and melting through the final shaping, welding, and coating processes must be undertaken in the United States. The definition of “manufacturing process” is smelting or any subsequent process that alters the material's physical form, shape or chemical composition. These processes include rolling, extruding, machining, bending, grinding, drilling, etc. The application of coatings, such as epoxy coating, galvanizing, painting or any other coating that protects or enhances the value of steel or iron materials shall also be considered a manufacturing process subject to the requirements of Section 106-1.01, Buy America Provision and of the Buy America Act.

Buy America does not apply to raw materials (iron ore), pig iron, and processed, pelletized and reduced iron ore. It also does not apply to temporary steel items (e.g., temporary sheet piling, temporary bridges, steel scaffolding, and falsework). Further, it does not apply to materials which remain in place at the Contractor's convenience (e.g., sheet pilings, and forms).

The North American Free Trade Agreement (NAFTA) does not apply to the Buy America requirement. There is a specific exemption within NAFTA (article 1001) for grant programs such as the Federal-aid highway program.

When steel and iron products manufactured in the United States are shipped to a foreign country where non steel or iron products are installed on or in them (e.g., electronic components in a steel cabinet), the steel and iron is considered to meet the requirements of this subsection.

The Contractor shall ensure that all manufacturing processes for each covered product comply with this provision. Non-conforming products shall be replaced at no expense to the State. Failure to comply may also subject the Contractor to default and debarment.

Provide a Certificate of Buy America Act Compliance (Form 25D-62) from the supplier for each steel or iron product and each component that is manufactured predominantly of steel or iron, prior to incorporating any steel or iron products or any components manufactured predominantly of steel or iron into the project. The supplier certifying Form 25D-62 may be the original manufacturer, fabricator, vendor, or subcontractor; provided the supplier has sufficient control and knowledge of the manufacturing process to accept responsibility and certify full and complete conformance with 23 CFR 635.410. Provide mill certificates when required by the Engineer. False statements may result in criminal penalties prescribed under AS 36.30.687 and Title 18 US Code Section 1001 and 1020.

**ALASKA AGRICULTURAL/WOOD PRODUCTS.** On wholly state-funded projects, agricultural/wood products harvested in Alaska shall be used pursuant to AS 36.15.050 and AS 36.30.322 whenever they are priced no more than seven percent above agricultural/wood products harvested outside the state and are of a like quality as compared with agricultural/wood products harvested outside the state.

The Contractor shall maintain records which establish the type and extent of agricultural/wood products utilized. When such products are not utilized, the Contractor shall document the efforts he made towards obtaining agricultural/wood products harvested in Alaska and include in this documentation a written statement that he contacted the manufacturers and suppliers identified on the Department of Commerce and Economic Development's list of suppliers of Alaska forest products concerning the availability of agricultural/wood products harvested in Alaska and, if available, the product prices. The Contractor shall complete this documentation at a time determined by the Contracting Officer.

The Contractor's use of agricultural/wood products that fail to meet the requirements of this Subsection shall be removed and replaced in accordance with the last paragraph of Subsection 105-1.03, Conformity With Plans and Specifications.

## **SECTION 106 CONTROL OF MATERIAL**

### **106-1.03 TESTING AND ACCEPTANCE.**

DELETE Subsection 106-1.03.3.f. in its entirety and *REPLACE* with:

f. The pay factor (PF) is: 
$$PF = 0.55 + \frac{PWL}{200}$$

Where: PWL varies from 50.000 to 100.000.

When PWL is less than 50.000, the pay factor (PF) = zero

## **SECTION 106 CONTROL OF MATERIAL**

DELETE Subsection 106-1.05 in its entirety and *REPLACE* with:

**106-1.05 CERTIFICATES OF COMPLIANCE.** The submittal requirements of this subsection are in addition to the submittal requirements of 106-1.01 Buy America Provision.

The Engineer may authorize the use of certain materials or assemblies based on either a manufacturer's certification or based on a Contractor's summary sheet attached to applicable certificates of compliance.

1. If by manufacturer's certification, the certificate must include the project name and number, the signature of the manufacturer, and must include information that clearly demonstrates the material or assembly fully complies with the Contract requirements.
2. If by Contractor's summary sheet, the summary sheet must include the project name and number, the signature of the contractor, and must include attached documentation that clearly demonstrates the material or assembly fully complies with the Contract requirements.

Electronic submittals that are submitted by email from the Contractor's email account are considered signed by the Contractor.

The Contractor shall submit additional certificates of compliance or test data if required by the Contract or by the Engineer. The Engineer may refuse permission to incorporate materials or products into the project based on a certificate of compliance that does not meet the Contract requirements.