



# Alaska Department of Transportation & Public Facilities

## Buy America & Buy American: Understanding Materials Requirements

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Our mission is to *Keep Alaska Moving* through service and infrastructure.



# Introduction

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# Buy America, Buy American, BABA

Similarly named but come from different sources and have different requirements.

Buy America (FHWA) – 23 USC 313; 23 CFR 635.410

Applies to Steel/Iron.

Manufactured products exempt since 1983  
(other than those predominantly steel/iron)



# Buy America, Buy American, BABA

Buy American (FAA) – 49 USC 50101

Applies to Steel/Iron & Manufactured Products





# Buy America, Buy American, BABA

Build America/Buy America – Title IX, Sections 70901-70953 of  
IIJA/BIL

Applies to Steel/Iron, Manufactured Products, &  
Construction Materials



# Buy America, Buy American, BABA

BABA allowed existing programs to continue.

Steel/Iron & Manufactured Products are unchanged from previous practices.

Construction Materials are required to be manufactured in the US for projects awarded after November 10, 2022.





# Construction Materials

Defined (from OMB M-22-11) as:

An article, material, or supply other than an item of primarily iron or steel; a manufactured product; cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives that are or consist primarily of: non-ferrous metals; plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables); glass (including optic glass); lumber; or drywall used in the project are manufactured in the U.S.



# Construction Materials

An article, material, or supply that is or consists primarily of:

- Non-ferrous metals;
- Plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables);
- Glass (including optic glass);
- Lumber; or
- Drywall



# Construction Materials

Construction Materials are not:

- Steel/Iron (separate category)
- Manufactured Products (separate category)
- Materials exempted in BABA Section 70917 (c)
  - Cement and cementitious materials
  - Aggregates such as stone, sand, or gravel
  - Aggregate binding agents or additives

OMB M-22-11 also says to treat anything composed of two construction materials as a manufactured product.



# Construction Materials

Construction materials in the specifications:

Relies on certification like Steel/Iron

Supplier with sufficient control and knowledge of the manufacturing process.

Original manufacturer, fabricator, vendor, contractor, or subcontractor.

FHWA, certify on form 25D-62 for each construction material.

FAA, certify on form 25D-154 for each construction material.

# FHWA Buy America Forms

## 25D-60 Material Origin Certificate

Prior to award of the Contract

Whenever Contractor becomes aware of a change.

 <b>MATERIAL ORIGIN CERTIFICATE</b> Federal-Aid Highway Contracts		
Project Name and Number: _____		
FOREIGN CONSTRUCTION MATERIALS AND PRODUCTS <sup>1</sup>	COUNTRY OF ORIGIN	COST <sup>2</sup>



# FHWA Buy America Forms

## 25D-62 Certificate of BAA Compliance

For each covered material (US  
made and not)

Must be submitted prior to  
payment on item.

	<b>Certificate of Buy America Act Compliance</b> Federal-Aid Highway Contracts
<b>PART 1:</b>	
Project Name and Number	
Supplier Company Name	
Supplied to: Contractor or Subcontractor Company Name	
Bid Item No. / Bid Item Description	Quantity
Description of Material Manufactured in United States:	
<b>PART 2: IF MATERIAL OR PRODUCT IS NOT COMPLIANT WITH BUY AMERICA THEN FILL OUT THE TWO BOXES BELOW:</b>	
Description of foreign-made materials or product, including the Country of Origin:	





# FAA Buy American Waivers

Only one version of form with bids – Construction Project

Only manufactured products can be waived.

DOT&PF waiver content forms removed, use FAA forms for waivers.

# FAA Buy America Form

25D-154 Material Submittal for BA  
Compliance

Same as the 25D-62 for FHWA

	
<b>Material Submittal for Buy American Compliance</b> Federal-Aid Airport Contracts	
<b>PART 1:</b>	
Project Name and Number	
Supplier Company Name	
Supplied to: Contractor or Subcontractor Company Name	
Materials: Bid Item No. / Bid Item Description	Quantity 0
Description of steel, iron, manufactured product, or construction material (attach material documentation and mill certifications when requested):	





# Qualified Products List (QPL)

Beginning to have certifications from vendors.

Still required to submit individual certifications on projects  
(25D-62 or 25D-154)



# OMB Proposed Rulemaking

Proposed rule to replace the memo guidance.

Changes to exemption for cement, aggregate, etc.

Changes to combination of materials creating a manufactured product

Changes to what produced in the US means by product.

Comments are due March 13<sup>th</sup>. Please submit comments through [regulations.gov](https://www.regulations.gov)



# Resources

OMB Memo M-22-11 <https://www.whitehouse.gov/wp-content/uploads/2022/04/M-22-11.pdf>

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

FHWA Q&A

[https://www.fhwa.dot.gov/construction/contracts/buyam\\_qa\\_baba.cfm](https://www.fhwa.dot.gov/construction/contracts/buyam_qa_baba.cfm)

FAA [https://www.faa.gov/airports/aip/buy\\_american/](https://www.faa.gov/airports/aip/buy_american/)

OMB Proposed Rule Making

<https://www.federalregister.gov/documents/2023/02/09/2023-02617/guidance-for-grants-and-agreements>





# Wrap Up

Questions

Feedback

Thank you for participating!

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