

# Wisconsin Department of Transportation

## Buy America Guidance for Utility Work in Wisconsin

*This guidance applies to utility agreements that were approved on or after January 15, 2016 and before November 10, 2022.*





# BUY AMERICA GUIDANCE FOR UTILITY WORK IN WISCONSIN

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## 1. Introduction

### 1.1 Originator

The Chief of Acquisition & Services Section in the Bureau of Technical Services at the Wisconsin Department of Transportation (WisDOT) is the originator of this guidance. All questions and comments on the contents should be directed to the Statewide Utility Engineer using the following email address: [dotdtsdcouilitycoordination@dot.wi.gov](mailto:dotdtsdcouilitycoordination@dot.wi.gov)

### 1.2 Terminology

Both federal and state terminology are utilized within this guidance. It is recommended that definitions be reviewed prior to utilizing this guidance in order to ensure compliance with Buy America. For instance, it is important to know the difference between WisDOT, Local Public Agency (LPA), and project sponsor. Also, it is essential to know the difference between Buy America and Buy American as this document only covers Buy America.

### 1.3 Application

This guidance is limited to utility work that is associated with a project that is let by WisDOT. This guidance is intended to supplement and be implemented in conjunction with the Federal Highway Administration (FHWA) through the cooperative effort between the FHWA Wisconsin Division and WisDOT.

- For projects that are let by another state, coordinate with the Statewide Utility Engineer to determine which states Buy America requirements apply to the utility work within the boundaries of the State of Wisconsin. The Statewide Utility Engineer can be contacted using the following email address: [dotdtsdcouilitycoordination@dot.wi.gov](mailto:dotdtsdcouilitycoordination@dot.wi.gov)
- This guidance does not take precedence over projects where the Federal Transit Administration (FTA) or the Federal Railroad Administration (FRA) is determined to be the lead federal agency.

Project types let by WisDOT include: State Trunk Highways (STH), Connecting Highways, and the Local Program. **The use of this guidance is strictly limited to utility work in an audit/lump agreement and will not impact or modify how WisDOT applies Buy America requirements to utility work in a contract between WisDOT and a highway contractor.**

All references to WisDOT policy, guidance, requirements, classifications, etc. must be followed for all the aforementioned project types that are let by WisDOT. For Local Program Projects, the LPA shall not revise these requirements without prior approval from WisDOT.

Specifically, this guidance is relevant for all project types and utility work where the FHWA is determined to be the lead federal agency and all of the following are true:

- The highway project is within the scope of a National Environmental Policy Act (NEPA) determination and is eligible for assistance under title 23, United States Code.
- The highway project is funded by FHWA in one or more of the following areas:
  - Preliminary Engineering
  - Design
  - Construction
  - Real Estate
  - Utilities
  - Railroad
- The utility work is eligible for a WisDOT or LPA Share.
- The utility work is a part of a contract.

The vast majority of highway projects fall within the scope of a NEPA determination and utilize FHWA funding someplace on the project. WisDOT encourages that the utility company verify that these are true prior to developing a work plan. If one of the conditions within the first sentence of this paragraph are not true, Buy America would not apply and may affect how the work plan is developed.



## 1. Introduction

Utility work is only eligible for a WisDOT or LPA Share if the following three requirements are met:

- The utility company has a land right that will be acquired either temporarily or permanently, 84.295(4m) applies, it is a part of a special contract, it is a second move, or is a municipal sewer/water utility on STH 78 in the Village of Merrimac.
- The utility company must have utility facilities that are in conflict and/or impacted by the highway improvement project.
- The utility company enters into an audit/lump sum agreement that is approved by the project sponsor.

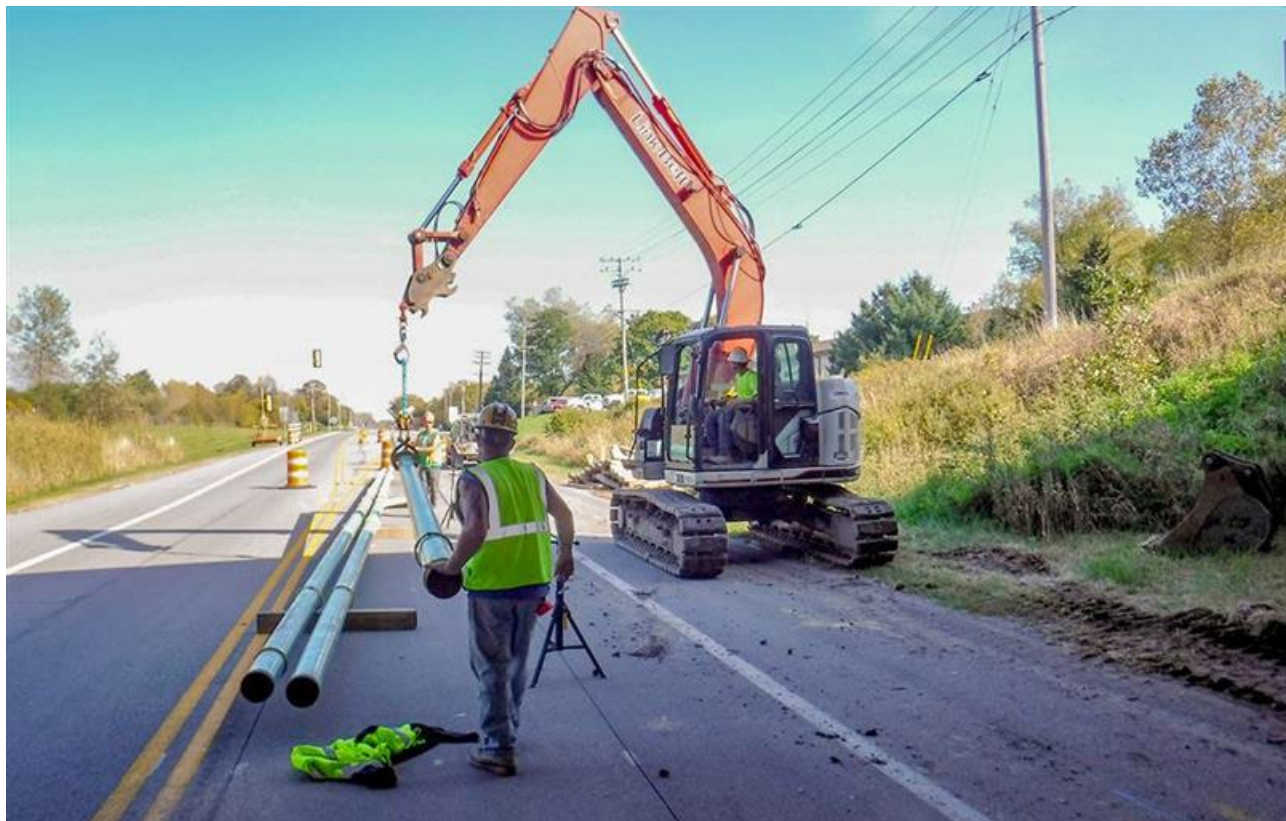
In other words, if the three conditions listed above are not true, the project sponsor has no legal authority to participate in a WisDOT or LPA Share and Buy America would not apply.

### 1.4 Resources

FHWA has several resources in-regards to Buy America. The following are a few of these resources:

- The federal Buy America law is in [23 U.S.C. 313](#)
- The FHWA regulatory provisions are in [23 CFR 635.410](#)
- The FHWA Construction Program Guide contains other policy and guidance on Buy America. This guide can be located using the following link: <https://www.fhwa.dot.gov/construction/cqit/buyam.cfm>

WisDOT resources for Buy America are included within this guidance and [Chapter 11 of the WisDOT Guide to Utility Coordination](#).





## 2. Definitions

### 2.1 Appendix A, Appendix B, Appendix C, Appendix D and Appendix E

The locations that the actual federal law, FHWA regulations, FHWA policy, and FHWA guidance have been placed for specific topics within this guidance.

### 2.2 Acquisition of Land Right

The area that is acquired by the real estate representatives for the project sponsor. The type of interest acquired typically includes Fee, Highway Easement (HE), Permanent Limited Easement (PLE), and Temporary Limited Easement (TLE). The acquisition area can also include, but is not limited to, scenic easements, restrictive development easements, and air rights. Typically, surplus lands are not included within the acquisition area.

### 2.3 Audit / Lump Sum Agreement

Means any of the following:

- DT1541 – Audit Agreement for Payment for Lands or Interests in Lands Acquired from Public Utility
- DT1542 – Lump Sum Agreement for Payment for Lands or Interests in Lands Acquired from Public Utility
- DT1575 – Agreement for Payment for Relocation or Replacement of Municipal Utility Facilities Located on Public Held Land Required by Freeway Construction
- DT2192 – Agreement for Payment for Relocation or Replacement of Utility Facilities
- DT2193 – Audit Agreement for Payment to Public Utility Based on Prior Land Rights
- DT2194 – Lump Sum Agreement for Payment to Public Utility Based on Prior Land Rights
- DT2244 Audit Agreement for Payment to Municipality for Lands or Interests in Lands Acquired from Public Utility
- DT1731 – Utility Agreement Change Order No. xx
- Audit Agreement
- Lump Sum Agreement
- Audit Agreement Based on Prior Land Rights
- Lump Sum Agreement Based on Prior Land Rights
- Utility Agreement Change Order
- Audit Agreement for Payment to Municipality for Lands or Interests in Lands Acquired from Public Utility
- Custom agreement or agreement based upon any of the above contract types
- Three-Letter Agreement
- State/Municipal Financial Agreement (SMFA)

### 2.4 Casting

An item that is predominately iron and includes, but is not limited to, covers, grates, lids, inlets, drains, frames, boxes, hatches, doors, gates, valves, adjustment rings, steps, and guards.



## 2. Definitions

### 2.5 Contract

Defined by FHWA as a utility agreement within the FHWA Utility Risk Assessment. FHWA defined two types of utility agreements that the project sponsor utilizes.

One type of utility agreement is referred to as the audit/lump sum agreement. It can utilize any combination of funding from the federal, state, and/or local level. These audit/lump sum agreements comply with 23 CFR 645 Subpart A.

The other type of utility agreement is commonly referred to as the utility permit. Utility permits do not utilize any funding from the federal, state, and/or local level. Utility permits must comply with 23 CFR 645 Subpart B.

Utility work, that is associated with 23 CFR 645 Subpart B and is included in the WisDOT permit DT1553 – Application/Permit to Construction, Operate and Maintain Utility Facilities on Highway Right-of-Way or similar document of the LPA, is not legally eligible for a WisDOT or LPA Share by the utility permit alone. These utility permits do not incorporate and are not based upon one of the statutes that authorize a utility company to be eligible for a WisDOT or LPA Share.

The term contract has only been used within this guidance in order to describe an audit/lump sum agreement that is eligible for a WisDOT or LPA Share.

### 2.6 Domestic Predominantly Steel

A manufactured product that is predominately steel and was produced in one of the 50 states, the District of Columbia, Puerto Rico, or in the territories and possessions of the United States.

### 2.7 Domestic Watermain Item

A manufactured product that is predominately iron and was produced in one of the 50 states, the District of Columbia, Puerto Rico, or in the territories and possessions of the United States.

### 2.8 Eligible for a WisDOT or LPA Share

Total cost that is allowed to be paid by the project sponsor.

Eligibility requires that the following three requirements are met:

- The utility company has a land right that will be acquired either temporarily or permanently, 84.295(4m) applies, it is a part of a special contract, it is a second move, or is a municipal sewer/water utility on STH 78 in the Village of Merrimac.
- The utility company must have utility facilities that are in conflict and/or impacted by the highway improvement project.
- The utility company enters into an audit/lump sum agreement that is approved by the project sponsor.

Without all of the above being true, the project sponsor has no legal authority to participate in a WisDOT or LPA Share.

### 2.9 Final Assembly

The process of assembling and/or installing the items that were delivered to the project site.

### 2.10 Foreign Predominately Steel

A manufactured product that is predominately steel and was not produced in one of the 50 states, the District of Columbia, Puerto Rico, or in the territories and possessions of the United States.

### 2.11 Foreign Watermain Item

A manufactured product that is predominately iron and was not produced in one of the 50 states, the District of Columbia, Puerto Rico, or in the territories and possessions of the United States.



## 2. Definitions

### 2.12 Iron

This has been referred to in several ways within this guidance. Due to the complexity of this guidance and the quotes that have been used from federal law, FHWA regulations, FHWA policy, and FHWA guidance, all the terms for iron, that are included below, are used to represent domestic watermain item and/or foreign watermain item:

- Domestic Iron
- Foreign Iron
- Iron
- Iron items
- Iron products
- Iron components
- Iron watermain, valves, wyes, hydrants, appurtenances, etc.

### 2.13 Local Public Agency (LPA)

A county, city, village, or town. Some entities that are not an LPA include school districts, joint local water authority, sewerage districts, drainage districts, and sanitary districts.

### 2.14 Manufactured Product

All utility related items in Wisconsin are classified as manufactured products. Federal law, FHWA regulations, and FHWA policy are that a manufactured product undergoes one or more manufacturing processes before the item can be used.

Federal law, FHWA regulations, and FHWA policy are that manufactured products may be usable as a stand-alone product, or as a component within a more complex assembly which would also be considered a manufactured product.

### 2.15 Predominantly Iron

Any manufactured product that is greater than 50% iron and is classified as a watermain item.

### 2.16 Predominantly Steel

Any manufactured product that is greater than 50% steel.

### 2.17 Processor

A company, machine, etc., that treats, prepares, or handles something.

### 2.18 Project Sponsor

The Wisconsin Department of Transportation (WisDOT) or Local Public Agency (LPA).

### 2.19 Steel

Due to the complexity of this guidance and the quotes that have been used from federal law, FHWA regulations, FHWA policy, and FHWA guidance, steel has been referred to in several ways in this guidance. All the terms below for steel, that are included below, are used to represent domestic predominantly steel and/or foreign predominantly steel:

- Domestic steel
- Foreign steel
- Predominantly steel
- Steel
- Steel items
- Steel products
- Steel components
- Steel material





## 2. Definitions

### 2.20 Utility Company

Means any of the following:

- Any person, firm, or corporation, including any foreign corporation authorized to transact business in Wisconsin for one or more of the following purposes:
  - The transmission or distribution of electrical power or light.
  - The transmission, distribution or delivery of heat, water, gas, sewer, telegraph or telecommunication services.
- Cooperative that has one or more of the following purposes:
  - The transmission or distribution of electrical power or light.
  - The transmission, distribution or delivery of heat, water, gas, sewer, telegraph or telecommunication services.
- Any municipal utility that has one or more of the following purposes:
  - The transmission or distribution of electrical power or light.
  - The transmission, distribution or delivery of heat, water, gas, sewer, telegraph or telecommunication services.
- Metropolitan sewerage district.
- Joint local water authority.
- Town sanitary district that has one or more of the following purposes:
  - Sanitary sewer
  - Water

### 2.21 Watermain Item

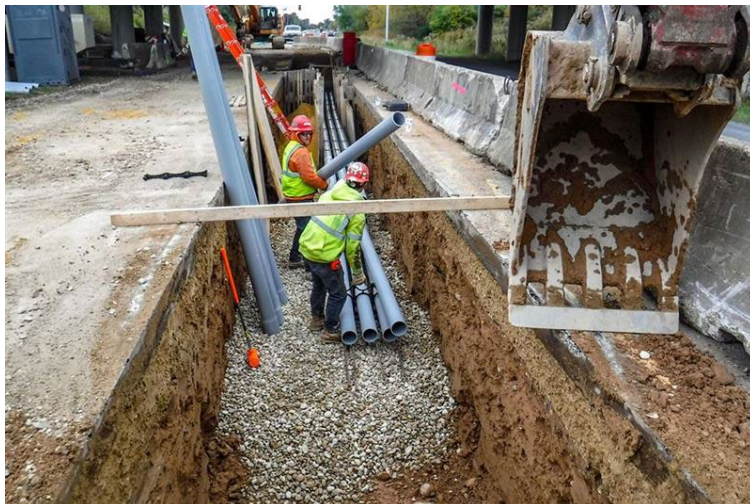
An item that is predominately iron and includes, but is not limited to, watermain, valves, elbows, tees, bends, wyes, hydrants, appurtenances, and services.

### 2.22 Wisconsin Department of Transportation (WisDOT)

The Department of Transportation for the State of Wisconsin.

### 2.23 WisDOT or LPA Share

The amount to be paid by the project sponsor. The amount to be paid is based upon the utility work that is included in the audit/lump sum agreement.





## BUY AMERICA GUIDANCE FOR UTILITY WORK IN WISCONSIN

### 3. General Provisions and Procedures (See Appendix A)

#### 3.1 Introduction

The federal law, FHWA regulations, FHWA policy, and FHWA guidance used to create this document can be found in the [Construction Program Guide](#). Specifically, see [Appendix A](#) for the applicable requirements and links to the FHWA source documents that are the basis for this section.

#### 3.2 Overview

The federal Buy America laws are in [23 U.S.C.313](#), Surface Transportation Assistance Acts, and the FHWA regulatory provisions are in [23 CFR 635.410](#). For other policy and guidance links, see the [Construction Program Guide](#).

FHWA guidance mentions that NAFTA, WTO Agreement on Government Procurement, or other international trade agreements do not affect the applicability of Buy America to highway projects. A highway project is classified as a project that is let by WisDOT. This includes projects that are on State Trunk Highways (STH), Connecting Highways, and within the Local Program.

#### 3.3 Precedence and Additional State Requirements

Buy America provisions take precedence over requirements pertaining to the relocation of utility facilities. Federal law and FHWA guidance require the following:

- Buy America provisions take precedence over other regulations like 23 CFR 645.117(e) which states that “The utility shall not be required to change its existing standards for materials used in permanent changes to its facilities.”
- Buy America provisions take precedence over 23 CFR 645.117(e), which allows utilities to furnish materials from company stock.
- Buy America provisions for jointly funded projects will utilize the lead agency provisions. When FHWA funds are transferred to FTA for a transit project, then FTA Buy America requirements apply. When FTA funds are transferred to the FHWA for a highway project, FHWA Buy America requirements apply.

Federal law, FHWA regulations, FHWA policy, and FHWA guidance directs that FHWA shall not impose any limitation or condition that would restrict WisDOT from imposing more stringent requirements on the use of articles, materials, and supplies mined, produced, or manufactured in foreign countries.

#### 3.4 Applicability

Federal law, FHWA policy, and FHWA guidance stipulates that Buy America applies to highway projects and utility work, even if an emergency situation occurs while the work is taking place.

An exception exists within 23 USC 123(a) that prohibits Federal-aid participation to be used in the WisDOT or LPA Share under certain circumstances. So, Buy America does not apply when state law prohibits state department of transportations from participation when a utility company is not eligible for the WisDOT or LPA Share. This means that this work is then not subject to Buy America requirements. The State of Wisconsin prohibits the project sponsor from participating in a WisDOT or LPA Share with a utility company for any utility work that is not a part of:

- An audit/lump sum agreement between the project sponsor and the utility company.

An audit/lump sum agreement between the project sponsor and the utility company, even if an audit/lump sum agreement exists for other utility work on the project.



## BUY AMERICA GUIDANCE FOR UTILITY WORK IN WISCONSIN

### 3. General Provisions and Procedures (See Appendix A)

Buy America applies to highway projects where state law does not prohibit participation, FHWA is determined to be the lead federal agency and all of the following four criteria are true:

- Highway project has a National Environmental Policy Act (NEPA) determination and is eligible for assistance under title 23, United States Code.
- The highway project is funded by FHWA in one or more of the following areas: Preliminary Engineering, Design, Construction, Real Estate, Utilities, Railroad.
- The WisDOT or LPA Share for the utility work is legally permitted under one or more of the following statutes:

STH Project	Connecting Highways Project	Local Program Project	Wis. Statute
	x	x	s. 61.34(3)(3m): Acquisition of Land Right by Village
	x	x	s. 62.22: Acquisition of Land Right by City
	x	x	s. 82.14(1): Acquisition of Land Right by Town
	x	x	s. 83.08(1): Acquisition of Land Right by County
x			s. 84.013(3m)(d): STH 78, Village of Merrimac, Wisconsin, for municipal sewer/water utility
x			s. 84.06(4): Special Contract
x			s. 84.063(4)(a) / Trans 220.06(1): Second Move
x	x		s. 84.09: Acquisition of Land Right
x			s. 84.295(4m): Municipal Work for Designated Freeway

- Utility work is included in one or more of the following contract types so the project sponsor is legally authorized to participate in a WisDOT or LPA Share:

STH Project	Connecting Highways Project	Local Program Project	Contract Type
x	x		DT1541 – Audit Agreement for Payment for Lands or Interests in Lands Acquired from Public Utility
x	x		DT1542 – Lump Sum Agreement for Payment for Lands or Interests in Lands Acquired from Public Utility
x			DT1575 – Agreement for Payment for Relocation or Replacement of Municipal Utility Facilities Located on Public Held Land Required by Freeway Construction
x	x		DT1731 – Utility Agreement Change Order No. xx
x			DT2192 – Agreement for Payment for Relocation or Replacement of Utility Facilities
x	x		DT2193 – Audit Agreement for Payment to Public Utility Based on Prior Land Rights
x	x		DT2194 – Lump Sum Agreement for Payment to Public Utility Based on Prior Land Rights
x	x	x	DT2244 Audit Agreement for Payment to Municipality for Lands or Interests in Lands Acquired from Public Utility
	x	x	Audit Agreement
	x	x	Audit Agreement Based on Prior Land Rights
	x	x	Audit Agreement for Payment to Municipality for Lands or Interests in Lands Acquired from Public Utility
x	x	x	Custom agreement
	x	x	Lump Sum Agreement
	x	x	Lump Sum Agreement Based on Prior Land Rights
x	x	x	State/Municipal Financial Agreement (SMFA)
x	x	x	Three-Letter Agreement
	x	x	Utility Agreement Change Order



## BUY AMERICA GUIDANCE FOR UTILITY WORK IN WISCONSIN

### 3. General Provisions and Procedures (See Appendix A)

#### 3.5 Project Sponsor Responsibilities

WisDOT requires, which also applies to projects sponsored by an LPA, that the utility work included in the audit/lump sum agreement follow the guidance within [Chapter 11 of the WisDOT Guide to Utility Coordination](#) and/or [Chapter 17 of the WisDOT Guide to Utility Coordination](#), unless a policy exception is approved by WisDOT.

WisDOT policy requires the project sponsor to determine the percentage of utility work that is eligible for a WisDOT or LPA Share. The percentage is based upon Wisconsin Statute or the number of poles, length of underground facility, and/or square foot area for special facilities. This percentage is applied to the entire cost expected for the utility work that is included in the audit/lump sum agreement.

WisDOT policy also requires an estimate to provide a reasonably accurate and detailed accounting of the entire cost expected for the utility work included in the audit/lump sum agreement.

#### 3.6 Waivers

Notwithstanding any other provision of law, federal law requires that the Secretary of Transportation shall not obligate any funds authorized to be appropriated to carry out the Surface Transportation Assistance Act of 1982 (96 Stat. 2097) and administered by the Department of Transportation, unless predominately steel used in such project are produced in the United States. In addition, WisDOT enforces a more stringent requirement for watermain items. Watermain items that are predominantly iron are subject to all of the requirements within this section.

Federal law also states that “(b) The provisions of subsection (a) of this section shall not apply where the Secretary finds -

- Their application would be inconsistent with the public interest.
- Materials and products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality.
- Inclusion of domestic material will increase the cost of the overall project contract by more than 25 percent.”

Federal law states that:

*“Limitation on Applicability of Waivers to Products Produced in Certain Foreign Countries. - If the Secretary, in consultation with the United States Trade Representative, determines that -*

*(1) a foreign country is a party to an agreement with the United States and pursuant to that agreement the head of an agency of the United States has waived the requirements of this section,*

*and*

*(2) the foreign country has violated the terms of the agreement by discriminating against products covered by this section that are produced in the United States and are covered by the agreement, the provisions of subsection (b) shall not apply to products produced in that foreign country.”*

FHWA policy states that:

*“Buy America requirements need to be considered during the design phase of a project since only under very limited circumstances will materials delivery delay be considered adequate grounds for a waiver. When domestic materials are available, meeting the contractor’s construction schedule will not be an adequate basis for a waiver. The cost differential between domestic and foreign products is generally not grounds for a waiver.”*

National or regional waivers can be difficult to get approved, as only two were approved from 1994 through 2020, and the waiver process must be performed outside of the need for a highway project. Project by project waivers will be difficult to get approved within the timeline required for the highway project.

FHWA guidance necessitates that a utility company work with WisDOT if the utility company is interested in completing either of the waiver processes.

Wisconsin administrative code requires WisDOT to administer utility work associated with certain highway projects in a manner that is compatible and reasonable with the schedule for the highway project. WisDOT will only consider waivers for Buy America in the instances where the process is started and completed prior to a project plan being sent to the utility company. WisDOT requires one year to complete the waiver process.



### 3.7 Alternative Bidding

FHWA regulations, FHWA policy, and FHWA guidance requires that the comparison must be between the total lowest bid using domestic predominately steel and the total lowest bid using foreign predominately steel.

In addition, WisDOT enforces a more stringent requirement for watermain items. Watermain items that are predominantly iron are subject to all of the requirements within this section.

If WisDOT elects to use alternate bid provisions, all bidders must be required to submit a bid based on furnishing domestic predominately steel and/or predominantly iron watermain items. The contract must be awarded to the bidder who submits the lowest total bid based on furnishing domestic predominately steel and/or predominantly iron watermain items, unless this bid is more than 25% higher than the total bid based on foreign predominately steel and/or predominantly iron watermain items.

WisDOT policy is that alternative bidding is not utilized unless a special exception is warranted. WisDOT has not performed this type of bidding on behalf of utility companies and will only consider doing so in select situations.





#### 4.1 Introduction

The federal law, FHWA regulations, FHWA policy, and FHWA guidance used to create this document can be found in the [Construction Program Guide](#). Specifically, see [Appendix B](#) for the applicable requirements and links to the FHWA source documents that are the basis for this section.

#### 4.2 Steel

WisDOT classifies all steel items as manufactured products. For Local Program Projects, the LPA shall not revise this requirement without prior approval from WisDOT. See definition for manufactured product.

WisDOT has not created separate guidance for steel items as all guidance in-regards to steel has been covered within manufactured products.

#### 4.3 Iron

WisDOT classifies all iron items as manufactured products. For Local Program Projects, the LPA shall not revise this requirement without prior approval from WisDOT. See definition for manufactured product.

WisDOT has not created separate guidance for iron items as all guidance in-regards to iron has been covered within manufactured products.

#### 4.4 Manufactured Products

FHWA guidance allows raw materials used in predominantly steel items to be imported. In addition, WisDOT enforces a more stringent requirement for watermain items. Watermain items that are predominantly iron are subject to all of the requirements within this section.

- Raw materials are materials such as iron ore, limestone, waste products, slag used in cement/concrete, etc., which are used in the manufacturing process to produce the predominately steel or predominantly iron watermain item.
- Waste products would include scrap; i.e., steel no longer useful in its present form from old automobiles, machinery, pipe, railroad tracks and the like. Also, steel trimmings from mills or product manufacturing are considered waste.
- Extracting, crushing, and handling the raw materials, which is customary to prepare them for transporting, are exempt from Buy America as long as all subsequent manufacturing processes occur domestically.

Federal law, FHWA regulations, and FHWA policy supports that Buy America is not applicable to manufactured products, except for specific materials. For utility work, the only material that Buy America applies to is steel.

WisDOT classifies all items as manufactured products as all items go through at least one manufacturing process. For Local Program Projects, the LPA shall not revise this requirement without prior approval from WisDOT.

WisDOT has included additional information on manufactured products within this guidance under the topics of manufactured products containing steel, manufactured products containing iron, and all other manufactured products.

#### 4.5 Manufactured Products Containing Steel

FHWA policy requires steel within manufactured products to be compliant if the manufactured product is predominately steel. Federal law, FHWA regulations, FHWA policy, and FHWA guidance do not define when or how to calculate predominantly steel. Due to this, WisDOT guidance establishes the required factors to follow for when and how to calculate predominantly steel. For Local Program Projects, the LPA shall not revise any of the requirements within this section without prior approval from WisDOT.



## BUY AMERICA GUIDANCE FOR UTILITY WORK IN WISCONSIN

### 4. Types of Items and Guidance (See Appendix B)

WisDOT guidance for when to calculate predominantly steel is as follows:

- WisDOT has reviewed and determined that a supplier and utility company meet the definition of a processor within the step certification process.
- WisDOT requires that assembly at the supplier or utility yard must occur prior to delivery of the item to the project site.
- WisDOT requires that the supplier or utility yard must be a location that has an address given by the US Postal Service and is not located on the project site. The use of any site that does not meet the requirements within the preceding sentence must be pre-approved by the project sponsor.
- WisDOT requires that the supplier or utility company ensure that the Buy America certification process is complete and performed correctly for these items.
- WisDOT requires that the calculation for predominantly steel be performed as delivered to the project site due to the following:
  - This occurs prior to final assembly.
  - Keeps consistency with FHWA policy and FHWA guidance that requires the cost of non-compliant steel to be calculated as delivered to the project.

WisDOT guidance for how to calculate predominantly steel allows the utility companies to utilize multiple options due to the unique make-up of the steel within the manufactured product. Predominantly steel can be calculated by volume, weight, cost, or surface area.





#### 4.6 Manufactured Products Containing Iron

Federal law, FHWA regulations, FHWA policy, and FHWA guidance requires iron items to comply with Buy America. Federal law, FHWA regulations, and FHWA policy does not require iron, within manufactured products, to comply with Buy America. Due to the FHWA definition of a manufactured product and the contradictions within federal law, FHWA regulations, and FHWA policy, WisDOT does not apply Buy America to any and all iron items, except where WisDOT has implemented a more stringent requirement. For Local Program Projects, the LPA shall not revise any of the requirements within this section without prior approval from WisDOT.

WisDOT requires that iron watermain items, classified as a manufactured product, to be compliant with Buy America if the manufactured product is predominately iron.

Federal law, FHWA regulations, FHWA policy, and FHWA guidance do not define when or how to calculate predominantly iron. Due to this, WisDOT guidance establishes the required factors to follow for when and how to calculate predominantly iron.

WisDOT guidance for when to calculate predominantly iron is as follows:

- WisDOT has reviewed and determined that a supplier and utility company meet the definition of a processor within the step certification process.
- WisDOT requires that assembly at the supplier or utility yard must occur prior to delivery of the item to the project site.
- WisDOT requires that the supplier or utility yard must be a location that has an address given by the US Postal Service and is not located on the project site. The use of any site that does not meet the requirements within the preceding sentence must be pre-approved by the project sponsor.
- WisDOT requires that the supplier or utility company ensure that the Buy America certification process is complete and performed correctly for these items.
- WisDOT requires that the calculation for predominantly iron be performed as delivered to the project site due to the following:
  - This occurs prior to final assembly.
  - Keeps consistency with FHWA policy and FHWA guidance that requires the cost of non-compliant iron to be calculated as delivered to the project.

WisDOT guidance for how to calculate predominantly iron allows the utility companies to utilize multiple options due to the unique make-up of the iron within the manufactured product. Predominantly iron can be calculated by volume, weight, cost, or surface area.

#### 4.7 All Other Manufactured Products

Federal law, FHWA regulations, FHWA policy, and FHWA guidance does not require any other materials, within manufactured products, to comply with Buy America. WisDOT will not require these items to comply with Buy America. For Local Program Projects, the LPA shall not revise this requirement without prior approval from WisDOT.





### 5.1 Introduction

The federal law, FHWA regulations, FHWA policy, and FHWA guidance used to create this document can be found in the [Construction Program Guide](#). Specifically, see [Appendix C](#) for the applicable requirements and links to the FHWA source documents that are the basis for this section.

### 5.2 Minimum Use Threshold

FHWA regulations, FHWA policy, and FHWA guidance requires that the minimum threshold for Buy America to apply to foreign predominately steel items is \$2,500 or 0.1% of the total contract amount, whichever is greater. In addition, WisDOT enforces a more stringent requirement for watermain items. Foreign watermain items would be included in the minimum use threshold for the contract which is \$2,500 or 0.1% of the total contract amount, whichever is greater.

FHWA policy and FHWA guidance requires that WisDOT track the amount of incorporated foreign predominately steel items as the work proceeds “to ensure that the minimal use threshold amount is not exceeded at any point in the contract (0.1% of the total contract amount or \$2,500 whichever is greater).” In addition, WisDOT enforces a more stringent requirement for watermain items that are predominantly iron. WisDOT requires watermain items that are predominantly iron to be tracked in this same manner and included in the minimum use threshold.

Items classified as predominantly steel must follow the requirements below:

- FHWA guidance states that “FHWA policy has been that the steel components of a predominately steel product must be of domestic manufacture unless the value of the components is less than the minimal use threshold for the project.”
- WisDOT requires that one must calculate and determine if an item is predominantly steel prior to deciding if an item counts against the minimum use threshold. If the item is:
  - Domestic predominantly steel, it does not count against the minimum use threshold.
  - Foreign predominantly steel, it counts against the minimum use threshold.
  - Not predominantly steel, it does not count against the minimum use threshold.
  - Domestic predominantly steel and a Buy America certification does not exist, it counts against the minimum use threshold.

Watermain items that are classified as predominantly iron must follow the requirements below:

- WisDOT will not require that an iron item count against the minimum use threshold unless it is a foreign watermain item that is predominantly iron.
- Domestic predominantly iron watermain items, where a Buy America certification does not exist, count against the minimum use threshold.

The minimal use threshold is tracked by the project sponsor via the invoicing process and the Buy America certification submitted by the utility company.

### 5.3 Overseas Manufacturing and Assembly of Items

The requirement for overseas manufacturing and assembly may apply to an item that is steel. In addition, WisDOT enforces a more stringent requirement for watermain items. Watermain items that are predominantly iron may be subject to all of the requirements within this section.



Items classified as predominantly steel must follow the requirements below:

- FHWA guidance states that “Although raw materials used in the steel manufacturing process may be imported, all manufacturing processes to produce steel products must occur domestically, including the addition of additives and the application of coatings. However, raw materials such as iron ore, limestone and waste products are not covered. The FHWA's November 25, 1983 final rule defined waste products to include scrap as steel that is no longer useful in its present form (e.g. steel from old automobiles, machinery, pipe, railroad tracks, etc.).”
- FHWA guidance states that “All manufacturing processes of the steel material in a project (i.e., smelting, and any subsequent process which alters the steel material's physical form or shape or changes its chemical composition) must occur within the United States to be considered of domestic origin. This includes processes such as rolling, extruding, machining, bending, grinding, and drilling.
- FHWA guidance states that “Fabrication is a manufacturing process that must take place in the United States. If a domestic steel product leaves the country for non-domestic fabrication, the entire steel product becomes foreign steel.”
- Federal law, FHWA regulations, FHWA policy, and FHWA guidance requires that application of a coating to an item that is predominately steel is subject to Buy America. In addition, federal law, FHWA regulations, FHWA policy, and FHWA guidance states that “A coating means any process that protects or enhances the value of a material or product to which it is applied, such as epoxy coatings, galvanizing or painting.”
- FHWA guidance states that Buy America does not apply to predominantly steel items “shipped overseas strictly for physical assembly. Note that if any of the manufacturing process (bending, extruding, drilling, coating etc.) occurs on any of the domestic steel items while overseas, the resulting product becomes foreign and does not conform with the Buy America requirements.”
- FHWA policy mentions that if foreign steel components are combined with other components into an assembled composite product that is predominantly steel, the foreign steel content of the composite product is not only the value of the foreign steel components, but also the pro-rata value of the assembly labor and overhead used in combining the foreign steel and other components into the finished composite product.
- FHWA guidance requires that the total cost for foreign predominately steel includes the total cost of the predominately steel, which also “includes the cost of the material plus the cost of transportation to the project site, as evidenced by delivery receipt.”
- Federal law states that “In calculating components' costs, labor costs involved in final assembly shall not be included in the calculation.”
- WisDOT requires that the cost for any predominantly steel item, that has a manufacturing process performed overseas so it ends up being classified as foreign predominantly steel, and is incorporated as a part of the utility work, will count against the minimum use threshold.
- WisDOT requires that the cost, as calculated within the bullet points of this section, for any foreign predominantly steel item, that has an assembly process performed overseas, and is incorporated as a part of the relocation work will partially count against the minimum use threshold. WisDOT requires applicable profit and tax to be included within the cost for the foreign predominantly steel item.



Watermain items that are classified as predominantly iron must follow the requirements below:

- WisDOT allows raw materials used in the watermain item manufacturing process to be imported. All manufacturing processes to produce watermain items must occur domestically, including the addition of additives and the application of coatings. However, raw materials such as iron ore, limestone and waste products are not covered.
- WisDOT requires that all manufacturing processes (i.e., any subsequent process which alters the watermain items material's physical form or shape or changes its chemical composition) of a watermain item, for a project, must occur within the United States to be considered of domestic origin. This includes processes such as rolling, extruding, machining, bending, grinding, and drilling.
- WisDOT has defined fabrication as a manufacturing process that must take place in the United States. If a domestic watermain item leaves the country for non-domestic fabrication, the entire watermain item becomes a foreign watermain item if it is predominantly iron.
- WisDOT requires that application of a coating to a watermain item that is predominately iron is subject to Buy America. WisDOT classifies the application of a coating as a manufacturing process, and it must occur within the United States for the watermain item that is predominantly iron to be considered of domestic origin. In addition, WisDOT defines a coating as any process that protects or enhances the value of a material or product to which it is applied, such as epoxy coatings, galvanizing or painting.
- WisDOT does not apply Buy America to watermain items that are predominantly iron and are shipped overseas strictly for physical assembly. Note that if any of the manufacturing process (bending, extruding, drilling, coating etc.) occurs on any of the predominantly iron domestic watermain items while overseas, the resulting product becomes foreign and does not conform with the Buy America requirements.
- For foreign watermain items that are combined with domestic watermain items into an assembled composite product that is a predominantly iron watermain item, WisDOT requires the foreign iron content of the composite watermain item that is predominantly iron is not only the value of the foreign watermain items, but also the pro-rata value of the assembly labor and overhead used in combining the foreign watermain items and domestic watermain items into the finished composite watermain item that is predominantly iron.
- WisDOT requires that the total cost for foreign predominately iron watermain items include the total cost of the predominately iron watermain items, which also includes the cost of the material plus the cost of transportation to the project site, as evidenced by delivery receipt.
- WisDOT does not include the labor costs involved in final assembly in the calculation of the component costs for a foreign watermain item that is predominantly iron.
- WisDOT requires that the cost for any watermain item that is predominantly iron, that has a manufacturing process performed overseas so it ends up being classified as a foreign watermain item, and is incorporated as a part of the utility work will count against the minimum use threshold.
- WisDOT requires that the cost, as calculated within the bullet points of this section, for any foreign predominantly iron watermain item, that has an assembly process performed overseas, and is incorporated as a part of the relocation work will partially count against the minimum use threshold. WisDOT requires applicable profit and tax to be included within the cost for the foreign predominantly steel item.



#### 5.4 Welding

WisDOT requires that green rod is Buy America compliant. In addition, WisDOT enforces a more stringent requirement for watermain items. WisDOT also requires that a predominantly steel or iron welding rods, used for watermain items that are predominantly iron, are subject to Buy America. The cost of the predominantly steel and/or predominantly iron watermain item that is incorporated as a part of the relocation work will count against the minimum use threshold and will be calculated as specified under the section "Overseas Manufacturing and Assembly of Items."

Items classified as predominantly steel must follow the requirements below:

- FHWA guidance clarifies that green rod is basically mild steel that is hot drawn and rolled with scale. It is used by welding rod manufacturers to produce welding rod. Since the green rod is typically a predominately steel product, it is covered by the Buy America requirements.
- FHWA guidance requires that all welding processes take place domestically since the welding rod itself is typically a predominately steel product and the welding process substantially alters the rod.

Watermain items that are classified as predominantly iron must follow the requirements below:

- WisDOT follows the FHWA guidance for predominantly steel items in this section.
- WisDOT also requires that predominantly iron welding rods, used for welding predominantly iron watermain items, comply with Buy America.
- WisDOT requires all welding processes with predominantly iron welding rods take place domestically since the welding rod itself is typically a predominately iron product and the welding process substantially alters the rod.

#### 5.5 Off the Shelf Items

FHWA policy and FHWA guidance requires that Buy America applies to all predominately steel supplied and permanently incorporated into a Federal-aid project regardless of the funding source actually used to purchase the product. In addition, WisDOT enforces a more stringent requirement for watermain items. Watermain items that are predominantly iron are subject to all of the requirements within this section.

WisDOT requires verification that Buy America applies to an off the shelf predominantly steel and/or predominantly iron watermain item. Determine if the item is classified as domestic or foreign.

If foreign, WisDOT requires the cost of the off the shelf predominately steel and/or predominantly iron watermain item that is incorporated as a part of the utility work to count against the minimum use threshold and calculated as specified under the section "Overseas Manufacturing and Assembly of Items."

#### 5.6 Project Sponsor Procured Items

FHWA guidance requires that Buy America applies to all predominately steel items that are permanently incorporated into Federal-aid funded project, regardless of how they were procured. In addition, WisDOT enforces a more stringent requirement for watermain items. Watermain items that are predominantly iron are subject to all of the requirements within this section.

WisDOT requires verification that Buy America applies to a predominantly steel and/or predominantly iron watermain item procured by the project sponsor. Determine if the item is classified as domestic or foreign.

If foreign, WisDOT requires the cost of a predominately steel and/or predominantly iron watermain item procured by the project sponsor that is incorporated as a part of the utility work to count against the minimum use threshold and calculated as specified under the section "Overseas Manufacturing and Assembly of Items."



### 5.7 Donated Items

FHWA policy and FHWA guidance requires that Buy America applies to all donated predominantly steel items. In addition, WisDOT enforces a more stringent requirement for watermain items. Watermain items that are predominantly iron are subject to all of the requirements within this section.

WisDOT requires verification that Buy America applies to the donated predominantly steel and/or predominantly iron watermain item. Determine if the item is classified as domestic or foreign.

If foreign, WisDOT requires the cost of the predominately steel and/or predominantly iron watermain item that is incorporated as a part of the utility work to count against the minimum use threshold and calculated as specified under the section "Overseas Manufacturing and Assembly of Items."

### 5.8 Reuse of Items

FHWA guidance states "Buy America also does not apply to items that are simply moved from one place to another within the same highway improvement project. For example, Buy America would not apply to utility poles that are merely moved from one location to another under the same project." FHWA guidance also mentions that this is since no new or added items are being used for the project.

WisDOT requires that the predominantly steel and/or predominantly iron watermain items must remain within the project limits in order for these items to remain compliant with Buy America.

WisDOT does not require reused predominantly steel and/or predominantly iron watermain items to be included on the Buy America certification and will not count towards the minimum use threshold.

### 5.9 Temporary Items

FHWA policy and FHWA guidance requires that Buy America applies to predominately steel that are "used" or "permanently incorporated" in a project. FHWA policy and FHWA guidance requires that predominately steel items specified in the contract documents that are not required to be permanently incorporated are considered temporary and not subject to the Buy America requirements.

In addition, WisDOT enforces a more stringent requirement for watermain items that are predominantly iron. Watermain items that are predominantly iron and are permanently incorporated are subject to Buy America.

Permanently incorporated includes:

- Items that are specified in the contract documents (or bid options specified in the contract documents) that must remain in place at the end of the project.
- Items that are impractical to remove due to design, construction staging or other functional requirements. If an item is specified in the contract documents and it is impossible or impractical to remove the item, then Buy America provisions apply.

Temporary use means that the contract specifications provide that any predominately steel and/or predominantly iron watermain items used on the project either must be removed at the end of the project or may be removed at the contractor's convenience. This includes any predominately steel and/or predominantly iron watermain items that are specified in the contract documents for one stage of the project, but for all practical purposes, may be removed during a subsequent phase (or left in place if requested by the contractor and approved by the contracting agency).

Examples of predominately steel or predominantly iron watermain items used on a temporary basis may include but is not limited to sheet piling and scaffolding.

WisDOT guidance does not require the temporary predominantly steel and/or predominantly iron watermain items to be included on the Buy America certification and will not count towards the minimum use threshold.



## BUY AMERICA GUIDANCE FOR UTILITY WORK IN WISCONSIN

### 6. Certifications (See Appendix D)

#### 6.1 Introduction

The federal law, FHWA regulations, FHWA policy, and FHWA guidance used to create this document can be found in the [Construction Program Guide](#). Specifically, see [Appendix D](#) for the applicable requirements and links to the FHWA source documents that are the basis for this section.

WisDOT will monitor the Buy America guidance and certification process for WisDOT construction projects in order to maintain some consistency with the guidance for utility contracts. The guidance and certification process for utility contracts may differ from that of WisDOT construction projects in select areas.

#### 6.2 Misrepresentation of Items

Federal law states:

*“If it has been determined by a court or Federal agency that any person intentionally*

*Affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product used in projects to which this section applies, sold in or shipped to the United States that was not made in the United States; or*

*Represented that any product used in projects to which this section applies, sold in or shipped to the United States that was not produced in the United States, was produced in the United States;*

*That person shall be ineligible to receive any contract or subcontract made with funds authorized under the Intermodal Surface Transportation Efficiency Act of 1991 pursuant to the debarment, suspension, and ineligibility procedures in subpart 9.4 of chapter 1 of title 48, Code of Federal Regulations.”*

#### 6.3 Step Certification Process

FHWA policy and FHWA guidance suggests the use of the step certification process in order to document compliance with Buy America. Each handler (supplier, fabricator, manufacturer, processor, etc.) certifies that their step in the process was domestically performed.

WisDOT recommends that this step certification is needed for each of the following steps of the manufacturing process for domestic predominantly steel and/or domestic watermain items that are predominantly iron, except when some steps are done at the same time or the step is not required in order to manufacture the item:

- Location the domestic predominately steel and/or domestic watermain item that is predominantly iron was melted/cast.
- Location the domestic predominately steel and/or domestic watermain item that is predominantly iron was rolled/drawn.
- Location the domestic predominantly steel and/or domestic watermain item that is predominantly was fabricated.
- Location the domestic predominantly steel and/or domestic watermain item that is predominantly iron was coated/galvanized.

A blanket certification letter will satisfy this requirement for materials that are compliant, but the location of manufacture is unknown. For a custom item purchased specifically for a project, it is highly recommended to follow the step certification process.

See definitions and guidance for the meaning of processor.

#### 6.4 Invoice Submittal

WisDOT requires that a certification document be submitted with every utility invoice.

For every utility invoice that is submitted, utilize the DT2249 – Utility’s Certificate of Compliance for Steel and Iron Items in order to certify to the project sponsor that all predominantly steel, watermain items that are predominantly iron, and coating processes conforms to the Buy America provisions.



## BUY AMERICA GUIDANCE FOR UTILITY WORK IN WISCONSIN

### 6. Certifications (See Appendix D)

Manufacturer/supplier should be the company that supplied the final product as delivered to the project site. The utility company or the manufacturer/supplier should have all of the step certification(s) available if requested by the project sponsor.

#### 6.5 Documentation

The utility company shall take actions and provide documentation conforming to the requirements for utility contracts to ensure compliance with the Buy America provision.

Before incorporating predominantly steel and/or watermain items that are predominantly iron as a part of the utility work, the utility company shall have or have access to all information that may have a bearing on a products origin of manufacture before it is accepted and incorporated into the work. The utility company shall not accept predominantly steel and/or watermain items that are predominantly iron without having access to or possession of this documentation.

The utility company must maintain a running total of foreign materials not meeting the Buy America criteria. All foreign materials must be listed individually within the table on the DT2249 certification form that is titled "Foreign Materials." The total cost for all the foreign materials must be on the DT2249 certification form in the blank provided under "Materials Used".

The columns for "Heat Numbers" and the "Mill / Fabricator" must be filled in with the actual heat numbers and the mill / fabricator for each domestic material on the Buy America certification or reference to a blanket certification for each domestic material on the Buy America certification.

Blanket letters stating that the cost of foreign materials is under the \$2,500 threshold or 0.1% of the total project cost are not accepted.

Blanket certification letters from the manufacturer must include the following:

- Certification that an item or multiple items are Buy America compliant.
- Statement from the manufacturer that the domestic predominantly steel and/or domestic watermain items that are predominantly iron were manufactured in the United States.
- Apply to an item on the certification and be traceable to the item that is being certified.

See "8. Attachments" for examples of Buy America certifications from manufacturers or suppliers that will meet the minimum requirements for a blanket certification.



#### 6.6 Project Sponsor Responsibilities

WisDOT requires that the project sponsor perform a cursory review of the utility's certificate of compliance in order to assess if the intent of Buy America has been met. The project sponsor will review:



## BUY AMERICA GUIDANCE FOR UTILITY WORK IN WISCONSIN

### 6. Certifications (See Appendix D)

- The Buy America guidance to become familiar with the current requirements.
- The utility contract to become familiar with the utility work that was a part of the utility contract.
- The Buy America certification to ensure that the following has been completed:
  - All required fields have been filled in.
  - Perform a cursory review to ensure that the necessary predominantly steel and/or watermain items that are predominantly iron have been included.
  - For progressive invoices, verify that it only includes the predominantly steel and/or watermain items that are predominantly iron and are associated with the progressive invoice.
  - Evaluate if the quantities shown seem reasonable for the relocation work that was included in the utility contract.
  - Verify that the correct unit has been entered for each predominantly steel or watermain item that is predominantly iron.
  - If necessary, request the utility company to submit documentation that has a bearing on the origin of manufacture for any item included on the certification.
  - Check that the total cost for all the foreign materials does not exceed the minimum use threshold as required by Buy America.
  - Verify that the certification has been signed.







### 7.1 Introduction

The federal law, FHWA regulations, FHWA policy, and FHWA guidance used to create this document can be found in the [Construction Program Guide](#). Specifically, see [Appendix E](#) for the applicable requirements and links to the FHWA source documents that are the basis for this section.

### 7.2 Recommendations to Ensure Compliance

WisDOT recommends utilizing the following tips to avoid non-compliance with Buy America:

- Verify that Buy America applies to the utility contract.
- Utilize the step certification process.
- Ensure the manufactured product in question is classified as predominantly steel or a predominantly iron watermain item.
- Buy America certifications shall be obtained or have access to these certifications prior to permanently incorporating domestic predominantly steel and domestic watermain items that are predominantly iron.
- Confirm that the predominantly steel and watermain items that are predominantly iron are permanently incorporated as a part of the utility work verses a temporary use of the item.
- Calculate the cost of the foreign predominantly steel and foreign watermain items that are predominantly iron which are permanently incorporated as a part of the utility work.
- Track the amount of incorporated foreign predominantly steel and foreign watermain items that are predominantly iron as the work proceeds to ensure that the minimal use threshold amount is not exceeded at any point in the contract (0.1% of the total contract amount or \$2,500 whichever is greater).

### 7.3 Recovery of Damages

The project sponsor reserves its legal rights to seek recovery of damages and/or an amount equal to the loss of Federal funds on a project due to a utility company's non-compliance with Buy America. The utility company will make the project sponsor satisfied as legally required by federal code, Wisconsin statute, Wisconsin administrative code, or a legal settlement.

### 7.4 Remedies for Non-Compliance

Project sponsor may assist in the resolution of a utility company's inadvertent, after-the-fact discovery of non-compliance with Buy America. The project sponsor should attempt to get the utility company in compliance by performing an in-depth review of the utility company's contract and invoice. The project sponsor should:

- Review the certification and list of materials to ensure that the utility company has applied the minimal use threshold correctly. Coordinate all potential revisions with the utility company.
- Review the certification to ensure that only predominantly steel and/or watermain items that are predominantly iron have been listed. Coordinate potential revisions with the utility company.
- Coordinate with the utility company to have non-compliant items replaced with compliant items to get to a point where the cost of the remaining non-compliant items is below the minimal use threshold.
- If attempts to correct non-compliance fails, WisDOT will coordinate with FHWA.



## BUY AMERICA GUIDANCE FOR UTILITY WORK IN WISCONSIN

### 7. Non-Compliance (See Appendix E)

FHWA guidance expects that a review of the following will be performed to assist in the resolution of a utility company's inadvertent, after-the-fact discovery of non-compliance with Buy America:

- WisDOT's material certification procedures for determining Buy America compliance.
- Degree of diligence by WisDOT to ensure Buy America compliance.
- Utility contract provisions prescribing Buy America requirements.
- Availability of domestic items or its equivalent at the time when the minimum use threshold was exceeded for foreign items.
- Issues associated with the removal and replacement of foreign items with domestic items that are Buy America compliant.

FHWA guidance directs that the FHWA division in Wisconsin, with Headquarters' concurrence, will utilize available options to resolve the Buy America compliance issue. Available options include:

- Remove enough foreign items and replace with domestic items such that the cost of the remaining foreign items is less than the minimum use threshold.
- Require that the foreign items be classified as Federal-aid non-participating.
- For situations where evidence exists that a careless, negligent, incompetent, or understaffed contracting agency is involved, the Division Office may determine that all project costs are ineligible for Federal-aid.





8. Attachments



Certificate of Compliance  
"Buy America" Provision

The Supplier acknowledges to and for the benefit of the Purchaser that it understands the goods and services provided under this Agreement are for a project being funded with monies made available by the federal government and the project is subject to certain "Buy America" provisions, together with certain implementing regulations, that requires construction materials used in the project be produced or manufactured in the United States ("Buy America Requirements") including goods provided by the Supplier. The Supplier hereby represents and warrants to and for the benefit of the Purchaser that (a) the Supplier has reviewed and understands the Buy America Requirements, (b) the corrugated steel pipe used in the project will be and/or have been manufactured or produced in the United States in a manner that complies with the Buy America Requirements, unless a waiver of the requirements is approved, and (c) the Supplier will provide any further verified information, certification or assurance of compliance with this paragraph, or information necessary to support a waiver of the Buy America Requirements, as may be reasonably requested by the Purchaser.

If the construction materials consist of steel, the mill certification from the producing mill, certifying that such steel was produced in the United States, is attached or will be provided upon request.

CONTECH ENGINEERED SOLUTIONS

By: Peggy Harnack  
Plant Clerk

Order: 9505510

Date: SEPTEMBER 2019

Project: PESHTIGO BROOK PHASE 3

Customer: GREEN BAY HIGHWAY PRODUCTS



8. Attachments



United States Pipe & Foundry Co, LLC
Certificate of Product Compliance

6/19/2018
MCHUGH EXCAVATING PLUMBING
WI DOT # 30
BUSINESS HWY 51 (POST RD)
WHITING, WI

6" TYTON DIP CL52 NOM 20' BCL/AC WITH ACCESSORIES (420 FEET)

We hereby certify material furnished by U.S. Pipe & Foundry Company, LLC., either for your stock or for direct shipment to your customer, are manufactured and tested in accordance with the following standards, and meet or exceed the requirements and recommendation therein.

Table with 3 columns: Material Name, Standard Reference, and Revision/Requirement. Includes items like DUCTILE IRON PIPE, RUBBER - GASKET, TYTON AND MECH. JOINTS, etc.

(\* ) Joints included are Tyton®, TR Flex® and HP Lok®

(\*\* ) NSF/ANSI Standard 61 (NSF 61) approved

(\*\* ) Includes single lined (ACL/AC) and double lined (BCL/AC)

Any materials included but not covered by the above specifications will be per manufacturer's standard.

All FIELD LOK 350® gaskets manufactured in the following elastomer compounds: Styrene Butadiene- (SBR), Acrylonitrile Butadiene- (NBR) and Ethylene Propylene Diene Monomer- (EPDM) meet the dimensional specifications and tolerances as our standard TYTON JOINT® pipe gaskets and are pressure rated in accordance with the performance requirements of ANSI/AWWA C111/A21.11 Rubber-Gaskets Joints for Ductile-Iron Pressure Pipe and Fittings.

All PROTECTO 401 CERAMIC EPOXY linings furnished with our products conform to U.S.Pipe's submittal BRO-068 (PROTECTO 401 Ceramic Epoxy Lined Ductile Iron & Fittings for Force Mains and Gravity Sewer Lines). U.S. Pipe certifies that our applicator met the requirements of the specifications.

U.S. Pipe & Foundry Company, LLC certifies that all of our TYTON®, TR FLEX®, HP LOK®, MJ, USIFLEX® and FLANGED ductile iron pipe, LESS ACCESSORIES, is manufactured in the United States, and thereby meets the requirements of the "Buy America Act".

UNITED STATES PIPE AND FOUNDRY COMPANY, LLC
Signature of Roxanne Nobile
By: Roxanne Nobile
Title: Inside Sales Representative

Ductile Iron Pipe, Fittings, Restraints and Fabricated Products
www.uspipe.com



8. Attachments

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Address: 1501 W. 17th Street - Anniston, AL 36201
Telephone No.: (800) 226-7601
Fax Number: (800) 226-0806

"Buy America(n)" Certificate of Compliance

Date: January 18, 2018

To: Whom It May Concern

Re: Buy America /Buy American Certification for Tyler Union Waterworks Made in the U.S.A Products

We appreciate the opportunity to supply our products for your projects requiring to some or full extent product that is substantially or wholly manufactured in the U.S.A. Tyler Union Waterworks certifies that its Domestic manufactured fittings and cast iron municipal castings are wholly manufactured in the U.S.A. using only raw materials that wholly originate in the U.S.A..

After a thorough review of "Buy America/Buy American" acts; Tyler Union certifies that our Domestic ANSI/AWWA fittings and ASTM cast iron municipal castings meet all applicable requirements and provisions as provided by the U.S. Department of Transportation and the Federal standards noted for domestic iron and steel construction materials incorporated into your project. These standards/laws/acts and revisions date from 1933 through current year 2016.

Buy American:

- American Recovery and Reinvestment Act of 2009 (ARRA), Section 1605
Federal Aviation Administration (FAA), 49 U.S.C. § 50101
Consolidated Appropriations Act, 2014, H.R. 3457 Division G, Title IV, Sec. 436 (a)(1)
Federal Water Pollution Control Act, 33 U.S.C. 1381 et seq.
Safe Drinking Water Act Section 1452, 42 U.S.C. 300j-12
Consolidated Appropriation Act 2014 section 436 American Iron and Steel (AIS) for CWSRF and DWSRF

Buy America:

- Federal Highway Administration (FHWA), 23 U.S.C. § 501015 313 - Buy America; 23 C.F.R. § 635.410
Federal Railroad Administration (FRA), 49 U.S.C. Chapters 244, 246: § 24405 - Buy America
National Railroad Passenger Corporation (AMTRAK), 49 U.S.C. § 24305
Federal Transit Administration (FTA), 49 U.S.C. § 5323(i); 49 C.F.R. Part 661 (Buy America Requirements)

If your domestic material project requires additional certifications as provided; you must advise the Tyler Union Waterworks product Distributor or Customer Service Agent upon order placement. Additional certifications available include 1) mill certification, 2) project and/or product specific certificate for accessories, and 3) coating certificate. Our purchase order system maintains purchase and shipping order information for a minimum of 12 months. For tracking purpose these orders indicate if the product processed and shipped was domestic in origin.

Tyler Union certifies its 2" through 48" Domestic ANSI/AWWA fittings are cast with tested and traceable ASTM A536 compliant ductile iron that is designed for use with and conforms to the all the applicable terms and requirements of ANSI/AWWA C153/A21.53, ANSI/AWWA C151/A21, ANSI/AWWA C115/A21, ANSI/AWWA C111/A21.11, ANSI/AWWA C116/A21.16, ANSI/AWWA C110/A21.10, ANSI/AWWA C104/A21.4. Additionally Tyler Union certifies its Domestic made in the U.S.A. cast iron municipal products (Valve Box, Service box, and Accessories) that are produced in accordance with and meet all applicable terms and provisions of ASTM A48. I certify that all the steel and iron products meet the "Buy America" material certification (23 CFR 635.410, as amended). Current revisions apply for each noted standard.

Best Regards,

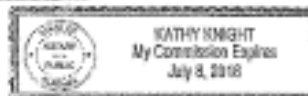
Handwritten signature of Mark Vess

Mark Vess
Technical Sales Support Specialist
Tyler Union Waterworks
Email: mark.vess@tylerunion.com
Tel.: (800) 226-7601

Project Name: Wisconsin DOT# 30 Business 51 (Post Road)
Location: Whiting, WI
Project Material: C183 MJ Fittings
Location of Mfg.: Tyler Union Foundry, Anniston, AL 36201
Project Contractor: James Peterson/Utility Division
T/U Distributor: Core & Main

Subscribed and sworn to before me this the 18th, Day of January 2018

Handwritten signature of Kathy Knight
Kathy Knight, Notary Public - Calhoun County, Alabama



\*Tyler Union Waterworks Contact Information\*

Anniston: (800) 226-7601
Corona: (866) 527-8471
Tyler: (800) 527-8478
www.tylerunion.com

This document is void if specified in any manner