

DIVISION OF LOCAL ASSISTANCE



CALTRANS OVERSIGHT INFORMATION NOTICE



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Welcome to the COIN!

This is a Caltrans Oversight Information Notice, or "COIN" for short. These short, single-topic bulletins are intended to provide outreach information and guidance to local agencies on issues pertaining to Federal-aid projects. They cover a wide variety of subjects, including discussions of findings resulting from process reviews by Caltrans and/or FHWA, changes in procedures or regulations, reminders of existing procedures or best practices, and other timely information. The goal is to ensure proper and timely delivery of Federal-aid projects.

TOPIC: Buy America Requirements

Permanent iron or steel materials incorporated on federal-aid transportation projects must meet the "Buy America" requirements of 23 Code of Federal Regulations (CFR) §635.410. Section 12.9, "Required Federal Contract Provisions," subsection "Buy America," of the Local Assistance Procedures Manual (LAPM) provides guidance to local agencies for compliance with "Buy America" requirements.

Recently, a Federal Highway Administration (FHWA) national review team noted "Buy America" concerns with local agencies administering federal-aid projects in California. In multiple instances they observed that required "Buy America" certifications for iron and steel materials were not properly filed in the project records despite the materials having been incorporated into the project and payment being made to the contractor.

Local agencies need to receive "Buy America" certifications when the material is delivered to the project. These certifications need to be reviewed for compliance with "Buy America" requirements and any noted deficiency resolved prior to the material being incorporated into the project and payment being made to the contractor. It is critical that these certifications then be properly filed within the project records for documentation purposes.

Local agencies may also wish to familiarize themselves with FHWA's "Buy America" question and answer link (http://www.fhwa.dot.gov/construction/contracts/buyam_qa.cfm) which clarifies common problem areas and provides helpful information regarding "Buy America."

While "Buy America" provisions do allow use of a small portion of foreign steel and iron materials (less than one tenth of one percent of the total contract cost [0.1%] or \$2500, whichever is greater), the consequences of exceeding this amount are severe. In these instances the project will either lose all federal-aid or be required to remove the foreign materials and replace with domestic materials to comply with "Buy America" requirements. It is important to note that "Buy America" discrepancies discovered by auditors often occur well after the project has been constructed and contract finalized, which greatly complicates the removal and replacement of these materials. Where foreign steel or iron materials are used on a project, it is recommended that the local agency determine the aggregate cost of foreign steel and iron and ensure the threshold allowance is not exceeded. Documentation of any foreign steel or iron material costs should be properly filed in the project records.