

**New Jersey Department of Transportation
CORRECTIVE ACTION NOTICE**

CAPITAL PROGRAM SUPPORT

Director: Paul F. Schneider Telephone: (609) 963-1830

CAN No. 092

Paul F. Schneider

Approved: Paul F. Schneider

Date: 8/23/2022

Subject: Infrastructure Investment and Jobs Act (IIJA) extension to the Buy America, Build America (BABA) Act

Bureau(s) Affected: In-House Design, Design Consultants, Project Management, and the Bureau of Construction Management

Description of Issue(s):

Projects that are already advertised may inadvertently miss the BDC22S-14 upcoming release announcement with these requirements.

Corrective Action Plan:

All projects must comply with the Infrastructure Investment and Jobs Act (IIJA) P.L. No. 117-58, which includes the Build America, Buy America (BABA) Act.

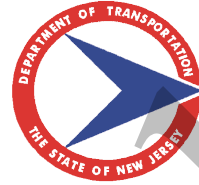
The requirements of the extension to the IIJA Buy America, Build America for construction materials need to be incorporated into projects authorized on or after November 10, 2022.

For projects already advertised, issue an addendum to incorporate the requirements of draft BDC22S-14 attached with this CAN.

Implementation: Immediate

New Jersey Department of Transportation

1035 Parkway Avenue, PO Box 600, Trenton, New Jersey 08625-0600



Baseline Document Change Announcement

ANNOUNCEMENT: BDC22S-14

DATE: To Be Announced

SUBJECT: Infrastructure Investment and Jobs Act (IIJA)
- Revision to the 2019 Standard Specifications for Road and Bridge Construction, Subsection 106.03 and Subpart 106.07.02.

Subsection 106.03 and Subpart 106.07.02 of the 2019 Standard Specifications for Road and Bridge Construction have been revised in order to implement the Infrastructure Investment and Jobs Act (IIJA) extension to the Buy America, Build America (BABA) Act.

The following revisions have been incorporated into the 2019 Standard Specifications via 2019 Standard Inputs, SI2019:

106.03 FOREIGN MATERIALS AND EQUIPMENT

2. Federal Aid Projects.

THE FOLLOWING IS ADDED:

Comply with the Infrastructure Investment and Jobs Act ("IIJA"), Pub. L. No. 117-58, which includes the Build America, Buy America Act ("the Act"). Pub. L. No. 117-58, §§ 70901-52.

- a. Ensure all iron and steel used in the project are produced in the United States. Ensure all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
- b. Ensure all manufactured products used in the project are produced in the United States. Ensure 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, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation.
- c. Ensure all construction materials are manufactured in and manufacturing processes occurred in the United States. Construction materials includes 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 is or consists of or a combination of non-ferrous metals, plastic and polymer-based products (including PVC, composite building materials, and polymers used in fiber optic cables), glass (including optic glass), lumber or drywall.

106.07.02 Certification for Iron and Steel

THE HEADING AND THE ENTIRE SUBPART IS CHANGED TO:

106.07.02 Certification for Iron and Steel and Manufactured Products and Construction Materials

- A. Precast Concrete Steel and Concrete Pipe Certification of Compliance.** For precast concrete and concrete pipe items, a Buy America Compliance Plan is required to confirm that the material meets the Buy America requirements and the Infrastructure Investment and Jobs Act ("IIJA"), Pub. L. No. 117-58, which includes the Build America, Buy America Act ("the Act"). Pub. L. No. 117-58, §§ 70901-52 as specified in 106.03. The ME will periodically audit compliance with the program at the precast plant. If the precast concrete item is not inspected by ME, submit a Certification of Compliance for the precast concrete item as required in 106.07.01. When a Certification of Compliance is submitted, ensure that the Certification of Compliance contains a statement that the reinforcing steel used in the precast concrete item complies with the Buy America requirements and the Infrastructure Investment and Jobs Act ("IIJA"), Pub. L. No. 117-58, which includes the Build America, Buy America Act ("the Act"). Pub. L. No. 117-58, §§ 70901-52 as specified in 106.03.
- B. Certification for Manufactured Products and Construction Materials.** For manufactured products and construction materials, a Buy America Compliance Plan is required to confirm that the material meets the Infrastructure Investment and Jobs Act ("IIJA"), Pub. L. No. 117-58, which includes the Build America, Buy America Act ("the Act"). Pub. L. No. 117-58, §§ 70901-52 as specified in 106.03. When a Certification of Compliance is submitted, ensure that the Certification of Compliance contains a statement that the manufactured products and construction materials used complies with the Infrastructure Investment and Jobs Act ("IIJA"), Pub. L. No. 117-58, which includes the Build America, Buy America Act ("the Act"). Pub. L. No. 117-58, §§ 70901-52 as specified in 106.03.
- C. Step Certification of Compliance.** For products that contain steel or iron components and are not covered in 106.07.02.A, step Certification of Compliance is required to confirm that the item meets the Buy America requirements and the Infrastructure Investment and Jobs Act ("IIJA"), Pub. L. No. 117-58, which includes the Build America, Buy America Act ("the Act"). Pub. L. No. 117-58, §§ 70901-52 as specified in 106.03. A step certification is a process under which each handler (e.g., supplier, fabricator, manufacturer, processor, coating facility) of the iron and steel components certifies that the steel and iron components were of domestic origin, and that their step in the process was domestically performed.

Every step in the process from melting to coating must be performed in the United States in order for the steel or iron component to be considered domestic and must be documented by step certification. If a domestic source for a steel or iron component cannot be found, submit a request for waiver to the Department. Do not purchase non-domestic steel or iron components without the express written consent of the Department.

Ensure that 3 copies of the Contractor's Certification of Compliance (Form DC-17) and the step Certifications of Compliance are provided for items containing steel or iron. Retain 1 copy and submit 2 copies to the RE. The Contractor may submit the DC-17 and the step certifications electronically in a scanned document.

Ensure that step Certifications of Compliance contain the following information:

1. Name of the Company supplying the material.
2. Name and location of the Company the material was shipped to.
3. Material description.
4. Quantity of material represented by the Certification.
5. Means of identifying the consignment, such as label marking or seal number.
6. Date and method of shipment.
7. A statement that the material conforms to the Contract material requirements and to the Buy America requirements in 106.03 and the Infrastructure Investment and Jobs Act ("IIJA"), Pub. L. No. 117-58, which includes the Build America, Buy America Act ("the Act"). Pub. L. No. 117-58, §§ 70901-52.
8. A statement that all steel or iron components in the material or assembly were "melted and manufactured in the US", unless there is non-domestic steel or iron in the material or assembly.
9. If there is non-domestic steel or iron in the assembly, describe in detail the non-domestic steel or iron material and the quantity. Attach a copy of the Department's approval for the use of non-domestic steel or iron components.
10. Signature of a person having legal authority to bind the supplier.

11. Typed or printed name of the person who signed the certification.

The Department will not make payment for work containing steel or iron materials until the RE has received the required DC-17 and step Certifications of Compliance, has inspected and accepted the material or assembly.

Implementation Code R (ROUTINE)

Changes must be implemented in all applicable Department projects scheduled for Final Design Submission at least one month after the date of the BDC announcement. This will allow designers to make necessary plan, specifications, and estimate/proposal changes without requiring the need for addenda or postponement of advertisement or receipt of bids.

Recommended By:

To Be Signed
Paul F. Schneider
Director
Capital Program Support

PS: NE: HP

Approved By:

To Be Signed
Parth Oza, P.E.
Acting Assistant Commissioner
Capital Program Management