

**Tennessee Department of Transportation
Division of Materials and Tests**

**Build America, Buy America (BABA) Requirements
(SOP 1-8)**

Purpose: The purpose of this document is to establish the requirements for furnishing construction materials and manufactured products manufactured in the United States to Tennessee Department of Transportation (TDOT) projects and projects under the oversight of TDOT (Local Projects, Grants, etc.) that include Federal Funds.

Background: Manufacturing processes for the construction material must occur in the United States. Manufacturing processes are defined as the final manufacturing process and the process immediately preceding the final manufacturing process.

Construction materials include articles, materials, or supplies that are or consist primarily of:

- Iron and steel (see SP106A)
- Non-ferrous metals
- Plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables)
- Glass
- Lumber
- Drywall

Construction materials exclude:

- Cement and cementitious materials
- Aggregates including stone, sand, or gravel
- Aggregate binding agents (e.g., asphalt binder)
- Additives (e.g., polymer modifiers and admixtures)
- Items manufactured from two or more materials, one of which is a construction material (as defined herein)
- Manufactured products that do not contain steel or iron (until further notice)

Buy America preference applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to a project. It does not apply to tools, equipment, and supplies brought to the construction site and removed at or before the completion of the project. Buy America preference does not apply to equipment and/or furnishings that are used at or within the finished infrastructure project but are not permanently affixed to the structure (e.g., movable chairs, desks, or computer equipment used at or within the project but are not integral or permanently affixed to a structure).

Policy: All materials and products must be assigned in an appropriate category **prior to use**.

- Ensure that suppliers and manufacturers understand the BABA and contract requirements to supply the required documentation. The Department will not

allow items to be installed until all supporting documentation has been reviewed and is found to be in accordance with the contract requirements. Insufficient or unavailable documentation or documentation showing products to contain construction materials of foreign origin are grounds for removal and replacement at the contractor's expense.

- “Manufacturer’s Certificate of Compliance” is required for every construction material in **Appendix B: BABA Construction Materials by Material Code**.

Procedure: TDOT has designated which materials are considered construction materials and will be required to meet the BABA regulations by their respective material codes in the Standard Specification for Road and Bridge Construction. However, TDOT recognizes there will be situations where a product or material may not fit the designation indicated in the Standard Specifications. In these cases, submit documentation demonstrating or justifying the supplier's or manufacturer's position that their specific item has been misclassified to the TDOT Division of Materials and Tests at least ten (10) business days in advance of installation. TDOT, in conjunction with FHWA, will review the submitted documentation and decide how that specific product or material will be classified. These determinations will be final and will require the appropriate necessary documentation as defined above.

Installation of any item designated as a construction material without the proper BABA documentation is at the Contractor's risk and must be removed and replaced at the Contractor expense if it be determined the item does not meet BABA regulations.

The flowchart listed in **Appendix A: Flowchart Establishing the Rules and Interpretations** is guidance provided by Federal Highway Administration (FHWA) and will be revised as necessary for TDOT to remain in compliance.

The list of material codes in **Appendix C: BABA Status by Material Code** is a complete listing of current material codes within the SiteManager/AWP system. This listing will be revised as necessary with the addition/deleting of material codes.