

**KANSAS DEPARTMENT OF TRANSPORTATION  
SPECIAL PROVISION TO THE  
STANDARD SPECIFICATIONS, EDITION 2015**

Delete subsection 106.c and replace with the following:

**SECTION 106**

**CONTROL OF MATERIALS**

**c. "Buy America" Materials.**

(1) Current federal regulations require the use of domestic iron and steel on federal-aid projects with limited exceptions. On federal-aid projects, use only iron and steel that have been manufactured, produced and processed in the United States. This includes any federally non-participating items.

(2) On all federal-aid projects, all iron or steel shall have been manufactured, produced, and processed in the United States. Manufacturing processes include any process which modifies the chemical content, the physical size or shape, or the final finish of the iron or steel. These processes include initial melting, mixing, rolling, machining, extruding, bending, grinding, drilling, and coatings applied to iron or steel (including epoxy coatings, galvanizing, painting, and any other coating that protects or enhances the value of the iron or steel used).

(3) Obtain the Engineer's written approval before using any iron or steel that has not been manufactured, produced, and processed in the United States as permitted in this **subsection 106.1c.(3)**. With the Engineer's written permission, foreign iron and steel may be used if:

(a) The combined total cost of all the foreign iron used, steel used, or the cost of both iron and steel used when both are required does not exceed 0.1% of the total cost of the Project or \$2,500.00 dollars, whichever is greater. The cost of the foreign iron used, steel used, or both includes material costs, manufacturing costs, assembly costs, transporting costs, and testing costs associated with the foreign iron, steel, or both.

(b) The Federal Highway Administration has waived specific products or processes according to 23 CFR 635.410, for the duration of that waiver.

(4) On federal-aid projects, in addition to iron and steel, all construction materials and manufactured products must meet the Buy America, Build America (BABA) Act of the Infrastructure Investment and Jobs Act (IIJA). The contractor shall provide materials that specifically meet the BABA Act by stating on the material certification "**This product meets the Buy America, Build America (BABA) Act of the Infrastructure Investment and Jobs Act (IIJA).**" The materials in the following Divisions and Sections are exempt from this requirement:

- (a) Division 1100 – Aggregates
- (b) Division 1200 – Asphalt Materials
- (c) Section 1401 – Air-Entraining Admixtures for Concrete
- (d) Section 1402 – Chemical Admixtures for Concrete
- (e) Section 1714 - Cementitious Grout
- (f) Section 1716 - Rapid-Set Concrete Patching Material
- (g) Section 1727 - Shotcrete Concrete
- (h) Section 1731 - Grout Used in Post-Tensioning
- (i) Section 2001 - Portland Cement and Blended Hydraulic Cement
- (j) Section 2004 – Fly Ash for Use in Concrete
- (k) Section 2006 – Silica Fume
- (l) Section 2007 – Slag Cement for use in Concrete and Mortars
- (m) Section 2008 – Blended Supplementary Cementitious Material for use in Concrete

The Contractor:

- Assumes the risk of including any foreign materials that are not exempt, including iron or steel, in the Contractor's bid.
- Incurs any costs needed to remove and replace with domestic iron and steel the amount of foreign iron, steel, or both that exceeds 0.1% of the total Project costs or \$2,500.00, whichever is greater.
- Has the obligation to remove and replace foreign iron and steel that exceeds 0.1% of the total Project costs or \$2,500.00 whichever is greater. The obligation is regulatory and is not excused by:
  - Errors the Contractor, subcontractors, suppliers, fabricators, or other third parties make in determining the costs of foreign iron and steel as defined above.
  - The Engineer's approval under **subsection 106.1c.(3)**. The Contractor shall make no claim for contract adjustment (additional time, money, or both) because of the use of foreign iron or steel.

(5) Companies providing iron or steel or performing any manufacturing processes on the iron or steel shall include a "Buy America" statement on test reports and material certifications submitted to KDOT, the Contractor, or both. The "Buy America" statement shall identify the source of the iron or steel and the location(s) of the manufacturing processes. The statement shall certify that the company issuing the test report or material certification complies with all provisions of the Buy America Act.

(6) This **subsection 106.1c. and "Buy America"** requirements do not apply to temporary items (Example: temporary sheet piling, steel scaffolding, and falsework) on the contract, even if these items are left in place with the Engineer's approval.

(7) After work is completed on the Project, submit to the Engineer a certification stating the dollar amount of foreign iron used, steel used, or both. Include material costs, manufacturing costs, assembly costs, transporting costs, and testing costs in the dollar amount. Identify a zero dollar amount if no foreign iron or steel was used on the Project.

(8) This **subsection 106.1c.** and Buy America requirements do not apply to 100% state funded projects.