

# Memorandum

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To: DEPUTY DISTRICT DIRECTORS, Construction  
DEPUTY DIVISION CHIEF, Structure Construction  
CONSTRUCTION MANAGERS  
SENIOR CONSTRUCTION ENGINEERS  
RESIDENT ENGINEERS

Date: November 1, 2023

File: Division of Construction  
CPD 23-9



From: RAMON HOPKINS, Chief  
Division of Construction

Subject: **BUY AMERICA UPDATE**

On August 23, 2023, the Office of Management and Budget issued revised guidance to federal departments and agencies concerning Buy America requirements for construction materials on infrastructure projects. This information was posted to the Federal Register at <https://www.federalregister.gov/documents/2023/08/23/2023-17724/guidance-for-grants-and-agreements> and includes Code of Federal Regulations, Title 2, Section 184 (2 CFR 184), "Guidance for Grants and Agreements." The California Department of Transportation (Caltrans) will begin using the modified Buy America requirements, adopting these revisions, for projects submitted to the Division of Engineering Services, Program/Project Management and Office Engineer for advertisement after October 6, 2023. Projects submitted in advance of this date will continue to apply previously established Buy America requirements throughout the duration of their contracts and no change orders will be issued to implement new requirements on such contracts. This directive seeks to provide clarification on the updated Buy America requirements.

The primary changes reflected in Section 6-1.04E, "Construction Materials," of the attached updated Buy America provisions are the following:

- Expansion of the subcategories of construction materials subject to Buy America requirements to include fiber optic cable, optical fiber, and engineered wood, in addition to those previously established, namely non-ferrous metals, plastic- and polymer-based products, glass, lumber, and drywall
- Modification of the manufacturer certificate of compliance attestation requirements to assure each construction material's manufacturing processes meet standards in 2 CFR 184.6 (see attached table identifying subject construction materials' manufacturing processes to be performed domestically)

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- Clarification that minor additions of articles, materials, supplies, or binding agents to the construction materials in the manufacturing process, do not change the categorization of a construction material subject to Buy America requirements

The attached Buy America frequently asked questions document has been posted to the Contractor's Corner for bidders' considerations. It contains additional information regarding Buy America situations that may occur on construction contracts.

Note that CPD 22-13, "Buy America," is still applicable to those preceding contracts containing only five subcategories of construction materials identified in Section 6-1.04E, "Construction Materials" of the special provisions. Additionally, CPD 22-13 provides relevant guidance to updated Buy America requirements except as reflected herein.

If you have questions or comments regarding this directive, contact Ken Darby, Division of Construction, at [Ken.Darby@dot.ca.gov](mailto:Ken.Darby@dot.ca.gov) or (916) 764-6929.

Attachments:

1. Attachment 1: Revised sample Section 6-1.04, "Buy America," of the special provisions
2. Attachment 2: Table of Construction Materials' Domestic Manufacturing Processes Standards (2 CFR 184.6)
3. Attachment 3: Buy America Frequently Asked Questions—Contractor's Corner