



INDIANA DEPARTMENT OF TRANSPORTATION

Driving Indiana's Economic Growth

Design Memorandum No. 22-25

December 19, 2022

TO: All Design, Operations, and District Personnel, and Consultants

FROM: /s/ Jeremy Hunter
Jeremy Hunter
Chief Engineer of Design
Engineering Department

SUBJECT: Infrastructure Investment and Jobs Act - Build America, Buy America

EFFECTIVE: Lettings on or after April 12, 2023

Build America, Buy America Act (the Act) requires that funds for Federal financial assistance programs for infrastructure may not be obligated for a project unless all iron, steel, manufactured products, and construction materials permanently incorporated into the project are produced within the United States. The Act is effective beginning November 10, 2022 and will apply to all contracts let on or after November 16, 2022.

Implementation

Contract Administration (CA) will add the Buy America provisions via USP 106 Build America Buy America to all applicable contracts for December 2022 and January 2023 lettings. Designers should not submit the USP into the INDOT Unique Special Provisions SharePoint site.

[The August 2022 and November 2022 RSP Menus](#) were revised on November 18, 2022, to add the RSP 106-C-277 Build America, Buy America Act Requirements, and RSP 106-C-278 Buy America Requirements. These RSPs will be effective for lettings on or after February 1, 2023, as shown in the revised menu below.

RSP Number	Title	A or R	Adopted or Revised Date	Letting Effective Date	Basis for Use
106-C-277	Build America, Buy America Act Requirements	A	11-18-22	02-01-23	Required for all Federal Aid contracts.
106-C-278	Buy America Requirements	A	11-18-22	02-01-23	Required for 100% State-Funded contracts.

For February and March 2023 lettings, CA will include the appropriate RSP. **Designers need not resubmit previously submitted menus.** For lettings on or after April 12, 2023, designers should use the applicable menu, and ensure that the appropriate RSP listed above is included in the contract.

Requirements and Waivers

Designers, materials specifiers, and contractors are required to comply with the Act as soon as it becomes effective. In special circumstances, the Act allows for waivers to be granted based on specific requirements. Waivers will be submitted by INDOT to FHWA for approval. All waiver requests must contain a detailed justification for the use of goods, products and materials mined, produced, or manufactured outside the United States. Proposed waivers can be due to public interest, non-availability, and unreasonable cost. The required list of information outlined in Part VII of [Federal Memorandum M-22-11](#) should be submitted with each proposed waiver.

Additional information on the Act requirements, waivers, and construction materials guidance is available in [Construction Memorandum 22-09](#).

Questions regarding USP or RSP implementation should be directed to Elizabeth Thomas, Senior Pre-Bid Review Engineer, ethomas2@indot.in.gov.