“BUY AMERICA”

DOCUMENTATION FOR
STEEL AND IRON

Ross “Oak” Metcalfe, P.E.
MDT Materials Engineer

&

MDT’s Materials Inspection and Certification Office (MICO)
“BUY AMERICA” REQUIREMENTS

All steel and iron materials incorporated into MDT projects must meet “Buy America” requirements.

• 23 USC Section 313 – All projects eligible for Federal Aid under the National Environmental Policy Act (NEPA), regardless of funding source.

• 23 CFR 635.410 – All manufacturing processes including coating must occur in the United States.

• FHWA “Buy America” Policy, Guidance, and Q&A (https://www.fhwa.dot.gov/construction/cqit/buyam.cfm)

• MDT Standard Specification 106.09 – Provides the contractual link to MDT projects.

• There is a “minimal use” exception for foreign steel. $2,500 or 1/10th of 1% of the total contract value (0.001 x Contract Value), whichever is more, can be non-domestic. This includes cost to deliver to the project.

So...what does all this mean and how do we sort through it???
**“BUY AMERICA” REQUIREMENTS**

**What does all this mean?**

- The rules apply to **ALL** MDT projects using any federal funds, at any point in development or construction, including maintenance projects.

- Iron and Steel must be “melted and manufactured” in the U.S.A.

- **What does “melted” mean?**
  - The original source of steel or iron must be a U.S. foundry, smelter, or steel mill.
  - Foreign source steel billets are not allowed.

- **What does “manufactured” mean?**
  - Any process that modifies the chemical content; physical shape or size; or final finish.
  - Includes initial melting through the bending and coating stages. Also includes rolling, extruding, machining, grinding, and drilling – or “Fabricating”. More on that later…
“BUY AMERICA” REQUIREMENTS

How does MDT deal with all this?

• Steel and iron products are categorized by “Material Code” in section MT 601 in the Montana Materials Manual.

• Steel Category 1 – Requires heat number traceability from the mill (mill cert) through final fabrication as well as certification all manufacturing processes, including coating, have taken place in the U.S. from each entity (each “step”) in the fabrication process.

• Steel Category 2 – Requires certification from the final fabricator all manufacturing processes, including coating, have taken place in the U.S. (No heat numbers!)

• “Melted and Manufactured in the U.S.A.” or “Meets 23 CFR 635.410” or “All manufacturing processes, including coatings, have occurred in the U.S.A.”

• NOT “meets buy America”, “made in America”, or “meets buy American”.

VISION ZERO
zero deaths - zero serious injuries
MONTANA DEPARTMENT OF TRANSPORTATION
“BUY AMERICA” REQUIREMENTS

Tying it all together...

• Each contract’s Schedule of Values contains a list of Line Numbers or Line Items that correspond to the standard nine-digit Bid Items.

• Each Bid Item is assigned appropriate Material Codes with the relevant sampling, testing, and steel requirements in AASHTOWare. (see Steel Checklist Report)

• The Bid Item and the Material Code are entered on the Form 406 to track the required steel documentation.

• ALSO, Steel and iron products must meet MDT Specifications and quality requirements.
  • Just because something is domestic in origin and manufacture doesn’t mean it automatically meets spec.
## “BUY AMERICA” REQUIREMENTS

### MT 601 Examples


- **Category 1**

<table>
<thead>
<tr>
<th>MATERIAL/MATERIAL CODE</th>
<th>TESTS</th>
<th>SAMPLE SIZE</th>
<th>SAMPLE/TEST FREQUENCY</th>
<th>FIELD</th>
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- **Category 2**

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### Steel Checklist

**Report Example**

- **Bid Item** (and description)
- **Material Code** (and description)
- **Steel Category** (Cat 1 or Cat 2)
- **Also shows tied project information**

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### Table: Steel Certification Report

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<th>Item Code</th>
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- Same bid item on both tied projects, but report groups similar Material Codes together.
**“BUY AMERICA” REQUIREMENTS**

- Form 406 - Contractor’s Certificate of Compliance for Steel & Iron Items
- Updated in May of 2021
- Filled out and Signed by the Prime Contractor
- Required for both Category 1 and Category 2 Steel Items
- Must indicate “Final Fabricator”
# How to fill out the new form 406

**CONTRACTOR'S CERTIFICATE OF COMPLIANCE**
FOR STEEL & IRON ITEMS
For Compliance with the "Buy America" Law and Provision
Std. Spec. 106.09, 23 USC Section 313 & 23 CFR 635.410

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<tr>
<th>MDT Bid Item No.</th>
<th>Material Code (Material Description)</th>
<th>Quantity</th>
<th>Unit: LF, yd², tons, etc.</th>
<th>Heat Number</th>
<th>Mill®</th>
<th>Final Fabricator®</th>
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Category 1 example

Category 2 example
One copy of this certificate and attachments must be submitted to the MDT Engineering Project Manager for each bid item containing steel products before those items can be permanently incorporated into the project. The Prime Contractor is responsible for providing proper documentation to MDT, and no payment will be made until that documentation is provided.

All steel and iron products must meet Std. Spec. 106.09, 23 USC Section 313, and 23 CFR 635.410. All certifications must have the domestic steel statement on them and be signed by a representative of that company. Simply stating “meets Buy America” is not sufficient. Examples of acceptable domestic steel statements are:

- Melted and Manufactured in the United States
- Complies with 23 CFR 635.410
- All manufacturing processes, including application of coating, have occurred in the U.S.A.

All Category 1 domestic steel certifications must include certification with heat numbers from the original producing United States steel mill. Additionally, documentation must be provided tracing the heat number through final fabrication and certifying each fabrication process, including coating, as completed within the United States.

At a minimum, Category 2 domestic steel certifications must include a signed statement from the final fabricator indicating steel products as melted/recycled and manufactured entirely within the United States. Heat numbers are not required to be submitted for Category 2 items however the final fabricator must maintain all original mill certs. Coating is considered fabrication however it may be impractical for a coating contractor or supplier to certify a fabricated item they were sent to coat is fabricated from domestic steel. In these cases, the fabricator of the item coated must make it clear the coating was performed in the US.

At a minimum, the total amount of all steel and iron incorporated into the project must be covered by one or more form 406s. Multiple forms should be submitted for multiple deliveries. The total quantity indicated on multiple form 406s for the same item must equal at least the quantity of that item permanently incorporated into the project. This includes steel and iron materials that are incidental to the bid item.

This form must be completed and signed by the Prime Contractor. In signing, the Prime Contractor attests to the accuracy of the information provided.
“BUY AMERICA” REQUIREMENTS
CATEGORY 1

• Original Mill Test Report with Heat #s & domestic statement (Melted & Manufactured in USA)
• Heat #s traced from the original Mill Test Report, through any brokers, through any manufacturing, coating, etc., to the Final Fabricator.
• Each fabricator certifies fabrication (manufacturing & coating) has taken place in the USA.
• Heat #s on Final Fabricator certification and name of Mill listed on Form 406, signed by Prime Contractor (Jobsite)
“BUY AMERICA” REQUIREMENTS
CATEGORY 1 EXAMPLE

Material Provided from **Distributor** Final Fabricator

- **Steel Mill**
- **Final Fabricator**
- **Distributor**
- **Jobsite (Form 406)**

**Mill test Report**
- Includes Heat #240943
- Traceable to Final Fabricator
- Includes M&M statement

**Final Fabricator**
- Includes Heat #240943
- Traceable to Subcontractor
- Traceable to Project
- Includes M&M statement

**Distributor**
- Lists Heat #240943
- Lists Mill
- Lists Final Fabricator
- Signed by Prime Contractor
"BUY AMERICA" REQUIREMENTS
CATEGORY 1 EXAMPLE

Following Guardrail heat #240943…

"Old" Form 406
- Filled out according to instructions

Jobsite
(Form 406)
- Lists Heat #240943
- Lists Mill
- Lists Final Fabricator
- Signed by Prime Contractor
Documentation from **Distributor/Final Fabricator** (Universal Industrial Sales)

- **Traceable to Subcontractor and Project**
- **Lists Subcontractor** (Mountain West Holding Co/Rocky Mountain Traffic Control)
- **Identifies Project**
- **Lists Materials**
- **Includes “Melted and Manufactured in USA” statement**

**“BUY AMERICA” REQUIREMENTS CATEGORY 1 EXAMPLE**

- Includes Heat #240943
- **Traceable to Subcontractor**
- **Traceable to Project**
- Includes M&M statement
"BUY AMERICA" REQUIREMENTS
CATEGORY 1 EXAMPLE

Documentation from Distributor/Final Fabricator
(continued)
• Lists Heat #240943

• Includes Heat #240943
• Traceable to Subcontractor
• Traceable to Project
• Includes M&M statement
"BUY AMERICA" REQUIREMENTS
CATEGORY 1 EXAMPLE

Documentation from Mill (North Star)
- Traceable to Distributor/Final Fabricator
- Lists Heat #240943
- Lists Distributor/Final Fabricator
- Includes “Melted and Manufactured in USA” statement

Mill Test Report
- Includes Heat #240943
- Traceable to Final Fabricator
- Includes M&M statement
**“BUY AMERICA” REQUIREMENTS**

**CATEGORY 1 EXAMPLE**

The Materials listed herein, furnished to MDT for use in the construction of the above referenced project by Missouri River Contractors, LLC 3384 E US-12 Helena, MT 405-443-2524 (Name of Prime Contractor) (Address) (City, State) (Phone)

have originated and/or been fabricated at the mills and fabricators indicated below.

<table>
<thead>
<tr>
<th>MDT Bid Item No.</th>
<th>Material Code (Material Description)</th>
<th>Quantity</th>
<th>Unit: LF, yd², tons, etc.</th>
<th>Heat Number</th>
<th>MFR*</th>
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<td>1</td>
<td>Each</td>
<td>5114930</td>
<td>325995</td>
<td>Steel Dynamics</td>
<td>1</td>
</tr>
<tr>
<td>705.01.01.01</td>
<td>(w-beam)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Universal Industrial Sales</td>
<td>2</td>
</tr>
<tr>
<td>705.01.05.01</td>
<td>(posts)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Universal Industrial Sales</td>
<td>2</td>
</tr>
<tr>
<td>609010030</td>
<td>705.01.01.01 (w-beam)</td>
<td>187.5</td>
<td>LF</td>
<td>8900265</td>
<td>249043</td>
<td>North Star</td>
<td>1</td>
</tr>
<tr>
<td>705.01.01.01</td>
<td>(w-beam)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Universal Industrial Sales</td>
<td>2</td>
</tr>
</tbody>
</table>

Same example using the “new” Form 406

- Heat #, Mill, and Final Fabricator on same row as the Material Code/Item number

*Category 1: Provide the steel producing/recycling mill and the final fabricator of the material. Provide heat number(s). Heat number(s) must be traceable from the mill through any intermediate fabricators, including any brokers, to the final fabricator. Heat numbers are not required to be traced through brokers after final fabrication.

*Category 2: Provide the final fabricator who is certifying domestic material and manufacture. Mills/heat numbers are not required.
“BUY AMERICA” REQUIREMENTS
CATEGORY 1 EXAMPLE

The Materials listed herein; furnished to MDT for use in the construction of the above referenced project by Missouri River Contractors, LLC 3384 E US-12 Helena, MT 406.443.2524

have originated and/or been fabricated at the mills and fabricators indicated below.

<table>
<thead>
<tr>
<th>MDT Bid Item No.</th>
<th>Material Code (Material Description)</th>
<th>Quantity</th>
<th>Unit: LF, yd², tons, etc.</th>
<th>Heat Number</th>
<th>Final Fabricator*</th>
</tr>
</thead>
<tbody>
<tr>
<td>600010023</td>
<td>705.01.01.01 (w-beam)</td>
<td>1</td>
<td>Each</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>2</td>
<td>Steel Dynamics</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Universal Industrial Sales</td>
</tr>
<tr>
<td>600010023</td>
<td>705.01.01.01 (w-beam flange)</td>
<td>1</td>
<td>Each</td>
<td>1</td>
<td>North Star</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Universal Industrial Sales</td>
</tr>
<tr>
<td>600010023</td>
<td>705.01.01.01 (post)</td>
<td>1</td>
<td>Each</td>
<td>2</td>
<td>Universal Industrial Sales</td>
</tr>
<tr>
<td>606010030</td>
<td>705.01.01.01 (w-beam)</td>
<td>187.5</td>
<td>LF</td>
<td></td>
<td></td>
</tr>
<tr>
<td>606010030</td>
<td>705.01.01.01 (w-beam flange)</td>
<td>1</td>
<td>Each</td>
<td>1</td>
<td>Steel Dynamics</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Universal Industrial Sales</td>
</tr>
<tr>
<td>606010030</td>
<td>705.01.01.01 (post)</td>
<td>1</td>
<td>Each</td>
<td>1</td>
<td>North Star</td>
</tr>
</tbody>
</table>

*Category 1: Provide the sheet producing/extruding mill and the final fabricator of the material. Provide heat number(s). Heat number(s) must be traceable from the mill through any intermediate fabricators, including any brokers, to the final fabricator. Heat numbers are not required to be traced through brokers after final fabrication.

*Category 2: Provide the final fabricator who is certifying domestic material and manufacture. Mills/Heat numbers are not required.

Same example using the “new” Form 406
- Heat #, Mill, and Final Fabricator on same row as the Material Code/Item number
- AND – ‘new’ Category 2 Material Code for “MASH W-Beam Terminal Section” (as of March 2018)
“BUY AMERICA” REQUIREMENTS
CATEGORY 1 EXAMPLE

The Materials listed herein; furnished to MDT for use in the construction of the above referenced project by
Missouri River Contractors, LLC 3384 E US-12 Helena, MT 406-443-2524

have originated and/or been fabricated at the mills and fabricators indicated below.

<table>
<thead>
<tr>
<th>MDT Bid Item No.</th>
<th>Material Code (Material Description)</th>
<th>Quantity</th>
<th>Unit: LF, yd², tons, etc.</th>
<th>Heat Number</th>
<th>MILL*</th>
<th>Final Fabricator*</th>
<th>MT 501 Category 1 or 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>606010023</td>
<td>606.XX.XX.XX (departure section)</td>
<td>1</td>
<td>Each</td>
<td></td>
<td></td>
<td></td>
<td>2</td>
</tr>
<tr>
<td>606010030</td>
<td>705.01.01.01 (w-beam)</td>
<td>187.5</td>
<td>LF</td>
<td></td>
<td></td>
<td></td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>705.01.01.01 (w-beam)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>705.01.05.01 (post)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>2</td>
</tr>
<tr>
<td>606010642</td>
<td>806.02.00.01 (W-Beam Terminal Section)</td>
<td>1</td>
<td>Each</td>
<td></td>
<td></td>
<td></td>
<td>2</td>
</tr>
</tbody>
</table>

*Category 1: Provide the steel producing/recycling mill and the final fabricator of the material. Provide heat number(s). Heat number(s) must be traceable from the mill through any intermediate fabricators, including any brokers, to the final fabricator. Heat numbers are not required to be traced through brokers after final fabrication.

*Category 2: Provide the final fabricator who is certifying domestic material and manufacture. Mills/Heat numbers are not required.

Same example using the “new” Form 406
- Heat #, Mill, and Final Fabricator on same row as the Material Code/Item number
- Shows Category 2 Material Code for “MASH W-Beam Terminal Section”
- Shows potential new Category 2 Material Code for “Departure Section”
“BUY AMERICA” REQUIREMENTS

Fabrication:
Any changes to the material after the original mill
• Cutting
• Bending
• Rolling
• Welding
• Coating
• Extruding
• Etc…..
“BUY AMERICA” REQUIREMENTS CATEGORY 2

- Original Mill Test Report **NOT** required to be submitted to MDT but must be maintained by the Final Fabricator (No Heat #’s!!)
- Final Fabricator certifies all manufacturing processes, including coating, for iron and steel materials have occurred in the U.S. (melted, manufactured, & coated in the U.S.) including signature by fabricator representative
- Final Fabricator’s name on Form 406, signed by Prime Contractor

Need certified documentation indicating all steel and iron M&M in U.S.

Need Final Fabricator Name & Prime Signature

VISION ZERO
Zero deaths - Zero serious injuries
MONTANA DEPARTMENT OF TRANSPORTATION
“BUY AMERICA” REQUIREMENTS CATEGORY 2 EXAMPLE

Materials Provided from Distributor Final Fabricator

- Traceable to Distributor
- Includes materials
- Includes M&M statement

- Traceable to Subcontractor
- Traceable to jobsite
- Includes Fabricator

- Lists Final Fabricator
- Signed by Prime Contractor
“BUY AMERICA” REQUIREMENTS

CATEGORY 2 EXAMPLE

Following Frangible Breakaway from Transpo...

“Old” Form 406
• Filled out according to instructions

- Lists Final Fabricator
- Signed by Prime Contractor
Documentation from Distributor (Coral Sales)
- Traceable to Subcontract, Fabricator, and Project
- Lists Subcontractor
- Lists Fabricator
- Identifies Project

Distributor

Subcontractor
- Traceable to jobsite
- Includes Fabricator
Documentation from Fabricator (Transpo)

- Traceable to Distributor
- Lists materials (item specs)
- Includes “Melted and Manufactured in US” statement

Final Fabricator

- Traceable to Distributor
- Includes materials
- Includes M&M statement
“BUY AMERICA” REQUIREMENTS

Now we’ll discuss a few “special” situations…
“BUY AMERICA” REQUIREMENTS

“Prefabricated” Steel Items

• Defined as items fabricated from Category I materials (e.g., structural steel, and structural steel tubing) at some point away from the project site

• Items fabricated away from the project may be inspected by the Department at the point of fabrication

• Items inspected at the point of fabrication still require a Form 406 from the Prime Contractor but will be accepted by a certification from the final fabricator, equivalent to Category 2 level documentation

• The certification must indicate “melted and manufactured in U.S.A.” or “all manufacturing processes have taken place in the U.S.A.” and the final fabricator must maintain all supporting documentation.

NEVER ASSUME ITEMS ARE ACCEPTED AT THE POINT OF MANUFACTURE!
THE FORM 406 AND CERTIFICATION MUST BE SUBMITTED TO PROJECT STAFF!
“BUY AMERICA” REQUIREMENTS

“Prefabricated” Steel Items (Cont.)

• Items fabricated from Category 1 materials (e.g., structural steel and structure steel tubing) away from the project that are not inspected at the point of fabrication still need to provide Category 1 documentation regardless of the fact they were “prefabricated”.

• MDT reserves the right to determine which items it will inspect at the point of fabrication
  • Bridges and bridge members are always inspected at the point of fabrication
  • Overhead structures may or may not be inspected at the point of fabrication
  • Bridge rail is not usually inspected at the point of fabrication
  • Guardrail is not inspected at the point of fabrication
  • Piling is not inspected at the point of fabrication

NEVER ASSUME ITEMS ARE ACCEPTED AT THE POINT OF MANUFACTURE!

THE FORM 406 AND CERTIFICATION MUST BE SUBMITTED TO PROJECT STAFF!
“BUY AMERICA” REQUIREMENTS

Precast items

- Defined as items fabricated at a precast or prestressed plant listed on the QPL or certified by PCI, NCPA, or ACPA
- The Department will either inspect the precast item at the plant or inspect the plant periodically
- Precast items still require a Form 406 from the Prime Contractor but will be accepted by a certification from the final fabricator (precast plant), equivalent to Category 2 level documentation
- The certification must indicate “melted and manufactured in U.S.A.” or “all manufacturing processes have taken place in the U.S.A.” and the final fabricator must maintain all supporting documentation.
- The certification must indicate the designation and number of items covered
  - E.g., 24” RCP, 10’ X 7’ RCB, Type I Drop Inlet, Type M-72 Beam, etc.

NEVER ASSUME ITEMS ARE ACCEPTED AT THE POINT OF MANUFACTURE!

THE FORM 406 AND CERTIFICATION MUST BE SUBMITTED TO PROJECT STAFF!
“BUY AMERICA” REQUIREMENTS

Precast items (Cont.)

• Certification must indicate product(s) meet all MDT specifications for items indicated
  • “Meets Contract/Project Specifications” (Must include Project Name/Number), or
  • “Meets AASHTO XYZ” (Spec called for in MDT Standard Specifications), or
  • “Meets MDT Specifications (Only applicable if an item is obviously a standard item)

• MDT inspects precast plants periodically or during production to ensure documentation and test results are maintained in order to allow a more general certification

• Items from plants not listed on the QPL or not certified by PCI, NCPA, or ACPA are considered “cast-in-place” and all materials must be sampled, tested, and accepted according to the individual material requirements in MT 601, e.g., barrier rail – See Section 554 and 605 in the Spec Book

NEVER ASSUME ITEMS ARE ACCEPTED AT THE POINT OF MANUFACTURE!

THE FORM 406 AND CERTIFICATION MUST BE SUBMITTED TO PROJECT STAFF!
“BUY AMERICA” REQUIREMENTS

Rebar

• Rebar is Category 2
• Rebar mill must be listed on the QPL
• Rebar epoxy coater must be listed on the QPL
• Still requires a Form 406 from the Prime Contractor
• Mill certs and heat #’s are not required to be submitted, however the name and location of the mill and epoxy coater must be indicated on the Final Fabricator’s certification
• Size and specification of Rebar must also be indicated on Final Fabricator’s certification
• The certification must indicate “melted and manufactured in U.S.A.” or “all manufacturing processes have taken place in the U.S.A.”, the final fabricator must maintain all supporting documentation, and the certification must include the name of the individual making the statement
“BUY AMERICA” REQUIREMENTS

In Conclusion…

• This presentation has focused primarily on “Buy America” Documentation

• Always remember material acceptance documentation also required – ensure material meets specifications for design and quality

• Examples:
  • Rebar (A615, M 31, A1035, etc.), galvanizing (A123, A153, M 111), epoxy (A775), steel (M 270, A709, etc.), guardrail (M 180), section of MDT spec book, other AASHTO or ASTM spec., etc.
“BUY AMERICA” REQUIREMENTS

THANK YOU FOR WATCHING!!

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Paul Bushnell – Inspection Operations Supervisor – pbushnell@mt.gov – 406-444-6267
Jim Davies – Materials Bureau Chief – jdavies@mt.gov – 406-444-3424