



APWA  
Washington

**DIVERSITY**  
*Expedition*

2018  
*Fall*

*October 3 - 5*  
2018

*Wenatchee Convention Center*  
WASHINGTON

The banner features a teal background on the left with a compass rose and a green banner with the event title. On the right, a person's legs in blue pants and black boots are shown stepping on snow against a bright sky with sun rays. The bottom section is a dark green gradient with event dates and location.



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**Talk About  
Buy America**

Megan Hall and Susan Wimberly  
FHWA Washington Division

**MADE IN  
THE USA**

This banner is identical to the one above but includes the text 'Talk About Buy America' in orange, the names 'Megan Hall and Susan Wimberly' and 'FHWA Washington Division' in white, and a red 'MADE IN THE USA' stamp in the bottom right corner.

**DIVERSITY Expedition** Buy America v. Buy American

Requirement	Statute/Regulation	Applicability	Coverage	Threshold
Buy America	23 USC 313 23 CFR 635.410	All projects funded under Title 23	Manufacturing process for steel and iron materials, application of a coating	None NAFTA and other international trade agreements have no effect
Buy American	41 USC 10a-10d 48 CFR 25	Direct Federal Procurement	All construction materials with exceptions	Thresholds identified in NAFTA and other trade agreements

**DIVERSITY Expedition** Buy America Requirements



- Buy America requires the use of domestic steel and iron materials **permanently** incorporated in Federal-aid projects.



## San Francisco-Oakland Bay Bridge The “Poster-Child for Buy America Issues”

2012 - “The Mother of MAP-21 Section 1518”



## NEPA Defines Buy America

- The scope of the NEPA Document defines your project.
- Buy America applies to all **contracts** eligible for assistance under title 23 within the **scope** of NEPA document
  - If a dollar of federal-aid expended on any **phase** or **contract** then Buy America applies to all contracts under that NEPA document, regardless of funding source.

**DIVERSITY Expedition** **Buy America Requirements**

- Utilities (Where and When Buy America Applies)
- Items in the FHWA Buy America Memo 2012
- Manufactured Products
- Examples of items that need to meet Buy America
- Required Documentation

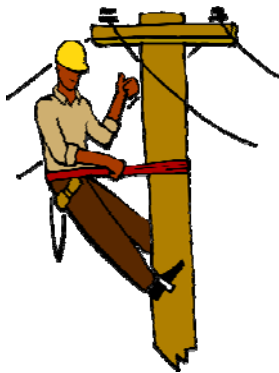
**DIVERSITY Expedition** **Buy America and Utilities**



The photograph shows a utility worker in a bucket working on a power line tower. The worker is positioned on a horizontal cross-arm of the tower, which is part of a larger structure. The tower is made of metal and has several power lines attached to it. The background is a cloudy sky.


 Buy America and Utilities

- Applies to:
  - Utility relocation work incorporated into a federally funded construction contract and
  - Stand alone federally funded utility relocation work
- All materials must meet Buy America.
- Cannot make materials non-participating.
- Cannot make component plans locally funded to circumvent Buy America.
- Cannot donate foreign steel materials.


 Buy America and Utilities


- Franchise (BA does not apply)
  - Not eligible for reimbursement
  - It's the utilities responsibility to move
- Non Franchise (BA does apply)
  - Eligible

## Buy America Requirements

- All manufacturing processes must take place **domestically**.
- Any process which modifies the chemical content, the physical size or shape, or the final finish is considered a manufacturing process.
- Manufacturing processes include rolling, extruding, machining, bending, grinding, drilling and coating.



## Manufactured Products

Buy America covers manufactured products that are **predominantly** steel or iron products.

### Stand-alone Products

- Steel rebar
- Structural steel

### Composite Products

- Bridge bearings
- Signal heads and controllers
- Precast concrete items

**DIVERSITY Expedition** **Rescinded 2012 Memo**

- FHWA Buy America Memo 2012
- Manufacturing products that are not steel or iron (total iron and steel 90% by weight)
- Miscellaneous components, subcomponents necessary to encase, assemble, and connect steel components

**DIVERSITY Expedition** **Examples of Items that Need to Meet BA**

Steel or iron products used in pavements, bridges, tunnels or other structures, which include, but are not limited to, the following:

- fabricated structural steel, reinforcing steel, piling, high strength bolts, anchor bolts, dowel bars, permanently incorporated sheet piling, bridge bearings, cable wire/strand, pre-stressing/ post tensioning wire, motor/machinery brakes and other equipment for moveable structures;
- guardrail, guardrail posts, end sections, terminals, cable guardrail;
- steel fencing material, fence posts;

**Examples of Items that Need to Meet BA**

- steel or iron pipe, conduit, grates, manhole covers, risers;
- mast arms, poles, standards, trusses, or supporting structural members for signs, luminaires, or traffic control systems;
- steel or iron components of precast concrete products, such as reinforcing steel, wire mesh and pre-stressing or post-tensioning strands or cables.

**Made in America?**

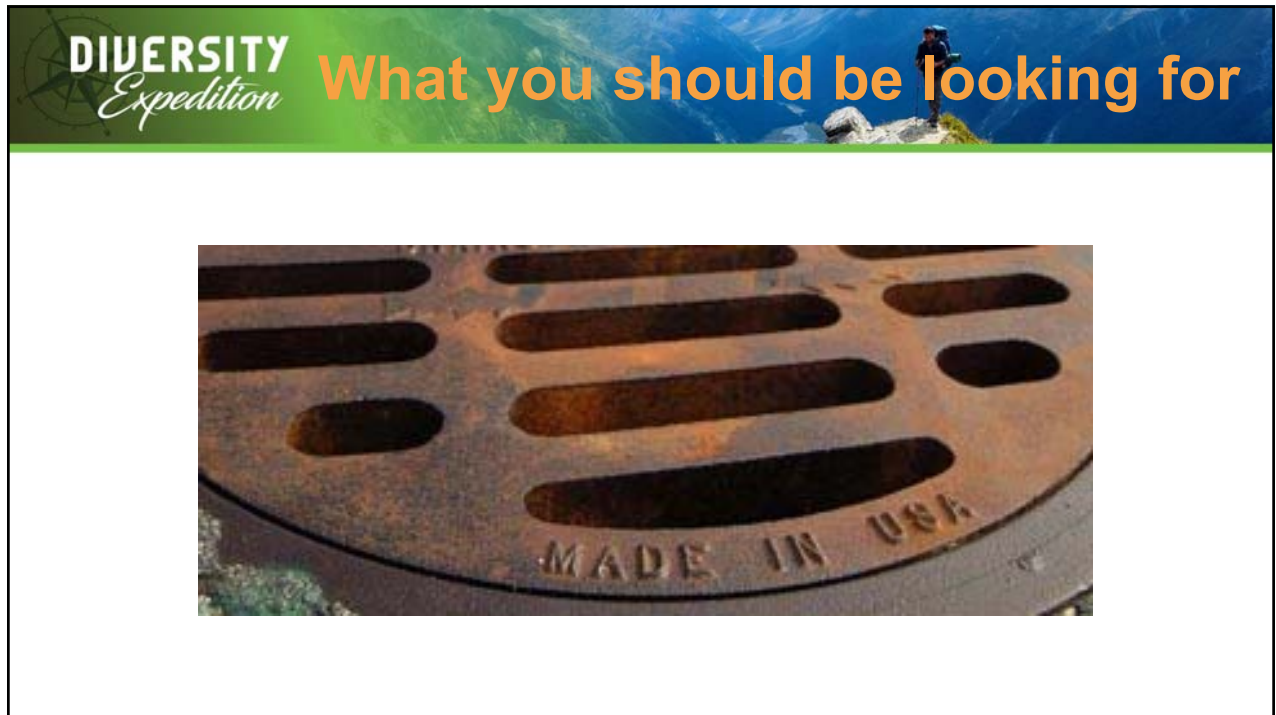


**DIVERSITY Expedition** **Made in America?**



**DIVERSITY Expedition** **Does this meet Buy America?**



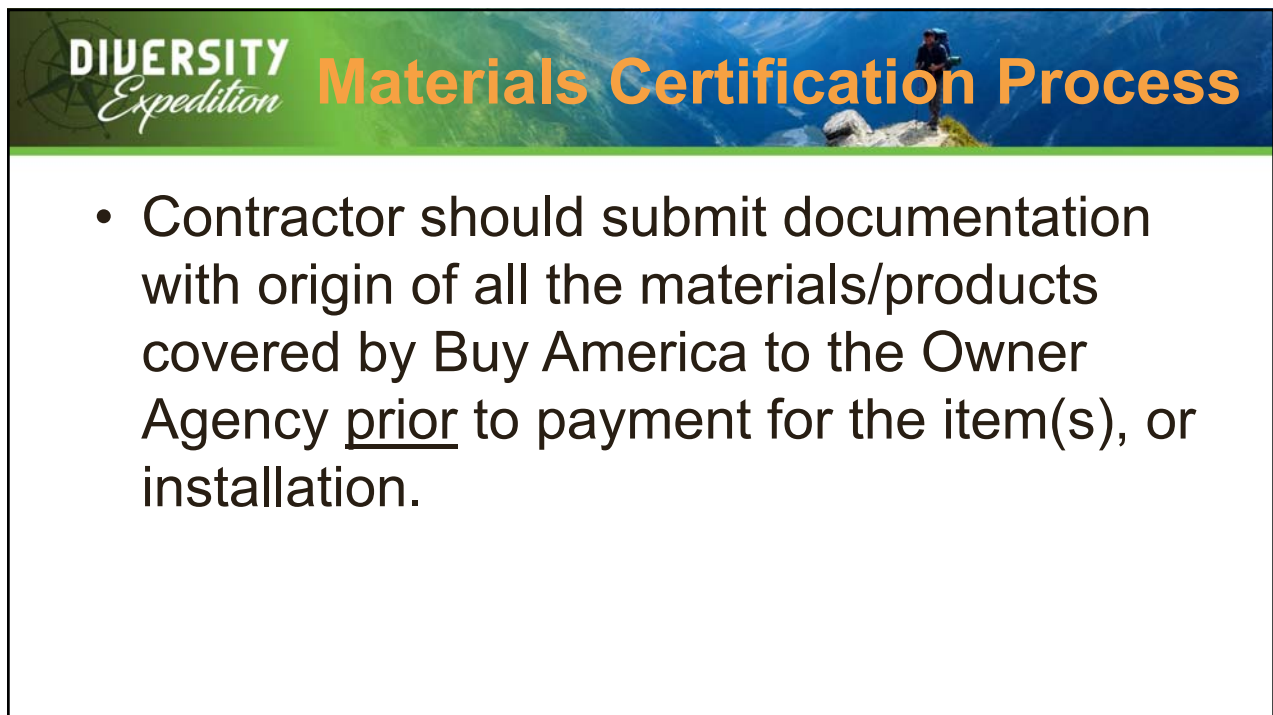
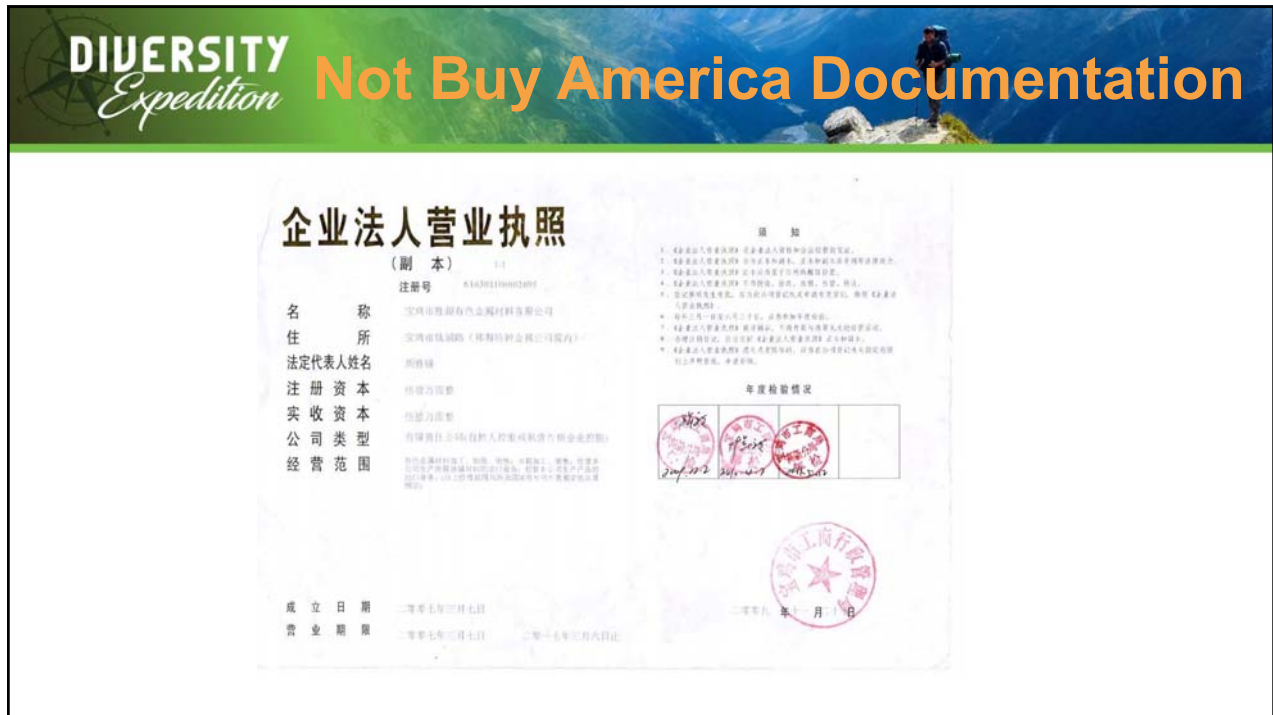


 <b>АО "НОВОЛИФЕЙСКИЙ МЕТАЛЛУРГИЧЕСКИЙ КОМБИНАТ"</b> NOVOLIFE METALURGICHSKIY KOMBINAT		СЕРТИФИКАТ КАЧЕСТВА № 119102 Quality certificate от 23/12/96 Item 44-166/9678-147 Контакт № от 28.05/96
Произведен (Сделан) Made (Origin) в г. МОСКВА в г. МОСКВА ОУЧИННИЦОВСКАЯ НАБ, 18/1 OUCHINNICOVSKAYA NAB, 18/1 MOSEKMETALURGICHSKIY LTD	Место производства Place of production МОСКВА, МОСКОВСКАЯ ОБЛАСТЬ Moscow, Moscow Region	Страна происхождения Country of origin RUSSIA
Вид изделия (Спецификация) Item description (Specification) СТАЛЬНЫЙ СТАНДАРТ STEEL STANDARD		
Тип изделия (Спецификация) Item type (Specification) ГОРЯЧАТОКРАШЕНАЯ СТАЛЬ HOT ROLLED COILS		
Технические условия Technical conditions ГОСТ 3803-91		
Дополнительные условия Additional conditions 113324 MOSCOW ОУЧИННИЦОВСКАЯ НАБ, 18/1		

- Steel mill test report from Moscow

D'oh





- Minimal use
- Temporary use
- Alternate bid procedures
- Buy America waivers

- The cost of foreign steel/iron materials used can not exceed one-tenth of one percent (0.1 percent) of the total contract cost (including change orders) or \$2,500 whichever is greater.
- The cost is based on the value of the steel and iron products as they are delivered to the project.
- In composite products it applies to cost of the steel and iron components.

## Temporary Use



- Foreign steel/iron is used on a temporary basis, but not permanently installed, e.g. **temporary** detour bridges, **temporary** falsework.
- Temporary use means that the it **must** be removed.
- Permanent incorporation includes items that are impractical and impossible to remove.

## Alternate Bidding Procedures



- The total project is bid with two alternatives; one which is based on domestic source steel/iron materials, and one which is based on foreign source steel/iron materials.
- **All bidders must** submit a bid for each alternative.
- The use of foreign steel/iron is justified only if the lowest **total bid for the entire project** with **domestic** steel/iron materials is **at least 25 percent more** than the lowest total bid with **foreign** steel/iron materials.

**DIVERSITY Expedition** Buy America ~~Waivers~~


- An agency must prove that furnishing domestic steel/iron materials and products would be inconsistent with the public interest.
- Must prove sufficient quantities of quality domestic steel/iron materials and products are not available.
- FHWA strongly recommends that agencies consider re-design with domestic products to avoid the lengthy waiver process.

**DIVERSITY Expedition** Which ones need to comply with Buy America





Tamperproof Set includes:  
 2 One Way Bolts  
 2 Break away nuts  
 2 Stainless steel washers  
 2 nylon washers





**DIVERSITY Expedition** **Must Comply with Buy America**



**DIVERSITY Expedition** **Successful Practices**

- LPAs should consider Buy America during preliminary engineering phase to avoid delays during construction, and explore the use of alternate domestic products.
- Review of the material certification procedures currently in place to ensure compliance.



## Successful Practices

- Develop a list of materials that need to meet and don't need to meet Buy America
- Use a standardized form contractors need to submit with BA documentation.
- Use a Buy America field guide for inspection personnel, material testers, and lab staff.



## Consequences

- Remove any foreign iron and steel products and replace with domestic iron and steel products.
  - Otherwise, the entire project will be classified as non-compliant and costs for the entire project will become ineligible.






## Buy America Resources

- <https://www.fhwa.dot.gov/construction/cqit/buyam.cfm>
- FHWA Buy America Web Site covering laws, regulations, policies, guidance, general information, training and archives.
- FHWA's Buy America Q and A for Federal-aid Program
- Page 86 Contract Admin. Core Curriculum Manual



## Top Ten Take Aways


- Whose Buy America?
- Buy America Starts with NEPA
- Buy America Applies to Utility Relocation
- Waivers **Don't Exist** - Need to Re-design
- Minimal Use of Foreign Steel
- Alternate Bid Procedures
- Temporary versus Permanent
- Consequence for Being Out of Compliance with BA
- Document, Document, Document!
- <https://www.fhwa.dot.gov/construction/cqit/buyam.cfm>



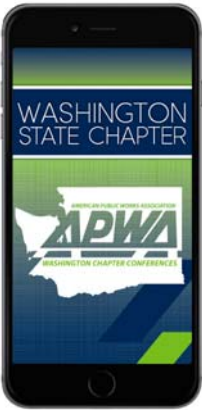
**DIVERSITY Expedition** Questions?

Buy America Contacts:

**WSDOT Region Local Programs Engineer**



**DIVERSITY Expedition 2018 Fall** HELP WANTED!



WASHINGTON STATE CHAPTER  
**APWA**  
WASHINGTON CHAPTER CONFERENCE

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