



Expanded Buy America Workshop

Construction Division



The What?



IIJA = Infrastructure Investment and Jobs Act



BABA = Build America, Buy America Act



Expanded Buy America Requirements



Contract



- Included in November 2022 let Contracts through:
 1. SP006-030
 2. General Note
- Defined Construction Materials per item in:
 3. Buy America Material Classification Sheet
- Enforced by:
 4. Contractor Submitting “Construction Materials Buy America Certification” Form 2806
 5. Only applies materials classified as construction materials
 6. Only applicable if SP006-030 is in your contract

Special Provision to Item 006

Control of Materials



Item 6, "Control of Materials" of the Standard Specifications is amended with respect to the clauses cited below. No other clauses or requirements of this Item are waived or changed.

Section 1.1, "Buy America," The section is removed and replaced by the following:

Comply with the latest provisions of Build America, Buy America Act (BABA Act) of the Bipartisan Infrastructure Law which restricts funds being made available from Federal financial assistance programs unless all the iron products, steel products, manufactured products, and construction materials used in the project are produced in the United States. Use steel or iron products, manufactured products, or construction materials produced in the United States except when:

- a waiver exists exempting the material from Buy America compliance
- the cost of materials, including delivery, does not exceed 0.1% of the total Contract cost or \$2,500, whichever is greater,
- the Contract contains an alternate item for a foreign source product and the Contract is awarded based on the alternate item, or
- the materials are temporarily installed.

For construction materials submit a notarized original of TxDOT Construction Material Buy America Certification Form (Department Form 2806) with the proper attachments for verification of compliance.

Construction Materials are classified as an article, material, or supply—other than an item of primarily iron or steel; a manufactured product; cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives—that is or consists primarily of:

- Non-ferrous metals,
- plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables),
- Glass (including optic glass)
- Lumber, or
- Drywall

Details shown in the plans provide additional clarification on Buy America requirements for this project.

For steel or iron materials submit a notarized original of the FORM D-9-USA-1 (Department Form 1818) with the proper attachments for verification of compliance. For Steel or Iron materials the manufacturing process includes any process that modifies the chemical content, physical shape or size, or final finish of a product. The manufacturing process begins with initial melting and mixing and continues through fabrication (cutting, drilling, welding, bending, etc.) and coating (paint, galvanizing, epoxy, etc.).

Follows Laws Except:

- Waiver exist
- Normal exceptions
(De minimis/Temporary)

Requires Form 2806

Defining Construction Materials

Current Iron/Steel Requirement



Article 4., "Sampling, Testing, and Inspection," is supplemented by the following:

Meet with the Engineer and choose either the Department or a Department-selected Commercial Lab (CL) for conducting the subset of project-level sampling and testing shown in Table 1, "Select Guide Schedule Sampling and Testing." Selection may be made on a test by test basis. CLs will meet the testing turnaround times shown (includes test time and time for travel/sampling and reporting) and in all cases issue test reports as soon as possible.

If the Contractor chooses a Department-selected CL for any Table 1 sampling and testing:

- notify the Engineer, District Lab, and the CL of project scheduling that may require CL testing;
- provide the Engineer, District Lab, and CL at least 24 hours' notice by phone or e-mail;
- reimburse the Department for CL Table 1 testing using the contract fee schedule for the CL (including mileage and travel/standby time) at the minimum guide schedule testing frequencies;
- reimburse the Department for CL Table 1 testing above the minimum guide schedule frequencies for retesting when minimum frequency testing results in failures to meet specification limits;
- agree with the Engineer and CL upon a policy regarding notification for testing services;
- give any cancellation notice to the Engineer, District Lab, and CL by phone or e-mail;
- reimburse the Department a \$150 cancellation fee to cover technician time and mileage charges for previously scheduled work cancelled without adequate notice, which resulted in mobilization of technician and/or equipment by the CL; and
- all CL charges will be reimbursed to the Department by a deduction from the Contractor's monthly pay estimate.

If the CL does not meet the Table 1 turnaround times, testing charge to the Contractor will be reduced by 50% for the first late day and an additional 5% for each succeeding late day.

Approved CL project testing above the minimum testing frequencies in the Guide Schedule of Sampling and Testing, and not as the result of failing tests, will be paid by the Department.

Other project-level Guide Schedule sampling and testing not shown on Table 1 will be the responsibility of the Department.

Table 1
Select Guide Schedule Sampling and Testing (Note 1)

TxDOT Test	Test Description	Turn-Around Time (Calendar days)
SOILS/BASE		
Tex-101-E	Preparation of Soil and Flexible Base Materials for Testing (included in other tests)	
Tex-104-E	Liquid Limit of Soils (included in 106-E)	
Tex-105-E	Plastic Limit of Soils (included in 106-E)	
Tex-106-E	Calculating the Plasticity Index of Soils	7
Tex-110-E	Particle Size Analysis of Soils	6
Tex-113-E	Moisture-Density Relationship of Base Materials	7
Tex-114-E	Moisture-Density Relationship of Subgrade and Embankment Soil	7
Tex-115-E	Field Method for In-Place Density of Soils and Base Materials	2
Tex-116-E	Ball Mill Method for the Densification of Flexible Base Material	5
Tex-117-E, Part II	Triaxial Compression Tests For Disturbed Soils and Base Materials (Part II)	6
Tex-113-E w/ Tex-117-E	Moisture-Density Relationship of Base Materials with Triaxial Compression Tests For Disturbed Soils and Base Materials (Part II)	10
Tex-140-E	Measuring Thickness of Pavement Layer	2
Tex-145-E	Determining Sulfate Content in Soils - Colorimetric Method	4
HOT MIX ASPHALT		
Tex-200-F	Sieve Analysis of Fine and Coarse Aggregate (dry, from ignition oven with known correction factors)	1 (Note 2)
Tex-203-F	Sand Equivalent Test	3
Tex-206-F	(Lab-Molded Density of Production Mixture - Texas Gyration) Method of Comparison Test Specimens of Bituminous Mixtures with Density of Compacted Bituminous	1

Article 4 not relevant to Buy America

This is the existing SP006-001 slightly changed

- This allows Commercial Labs
- Removed TEX410 and TEX 411-A (pertaining to soundness testing)

Item 6:

To comply with the latest provisions of Build America, Buy America Act (BABA Act) of the Bipartisan Infrastructure Law, the contractor must submit a notarized original of the TxDOT Construction Material Buy America Certification Form for all items classified as construction materials. This form is not required for materials classified as a manufactured product.

Refer to the Buy America Material Classification Sheet for clarification on material categorization.

The Buy America Material Classification Sheet is located at the below link.
<https://www.txdot.gov/business/resources/materials/buy-america-material-classification-sheet.html> for clarification on material categorization.

Stored at same location
as MPL:

- TxDOT.gov →
- Do Business →
- TxDOT Specifications →
(bottom of page under
Additional Resources)

Item Code	Description	Iron/Steel	Construction Material	Manufactured Product	Notes
0636	Aluminum Signs			<ul style="list-style-type: none"> Aluminum Signs 	
0644	Small Roadside Sign Supports and Assemblies	<ul style="list-style-type: none"> Triangular Slip Base - Iron/Steel Posts: - post - Galvanizing 	<ul style="list-style-type: none"> Triangular Slip Base - If non iron/steel 	<ul style="list-style-type: none"> Signs: 	
0647	Large Roadside Sign Supports and Assemblies	<ul style="list-style-type: none"> Supports: - Iron/Steel - Galvanizing 			
0650	Overhead Sign Supports	<ul style="list-style-type: none"> Supports: - Iron/Steel - Galvanizing Anchor Bolts: Galvanizing 	<ul style="list-style-type: none"> Conduit: - PVC 	<ul style="list-style-type: none"> Duct Cable: 	
0654	Sign Walkways	<ul style="list-style-type: none"> Galvanizing Walkway 			
0658	Delineator and Object Marker Assemblies	<ul style="list-style-type: none"> Wing Channel 	<ul style="list-style-type: none"> Flexible Posts: Thin Wall Tubing 	<ul style="list-style-type: none"> Barrier Reflectors: Ty 1, 3, and 4 Object Markers 	
0662	Work Zone Pavement Markings	n/a (Temporary)			
0666	Reflectorized Pavement Markings		<ul style="list-style-type: none"> Glass Traffic Beads 	<ul style="list-style-type: none"> Traffic Paint Thermoplastic Pavement Markings: Multi Polymer Pavement Markings 	

Buy America Material Classification Sheet



**Iron/Steel
No Requirement
Changes**

**States (Exempt)
No 2806 required**

Item Code	Description	Iron/Steel	Construction Material	Manufactured Product.
0536	Concrete Medians and Directional Islands	■ Reinforcing Steel	■ Hydraulic Cement Concrete (exempt)	<ul style="list-style-type: none"> - Expansion Joint Material - Waterstop - Evaporation Retardants - Curing Compound: - Epoxies and Adhesives:
0538	Right Of Way Markers	■ Reinforcing Steel	■ Hydraulic Cement Concrete (exempt)	
0540	Metal Beam Guard Fence	<ul style="list-style-type: none"> ■ Rail Elements: ■ Steel Posts and Hardware ■ Terminal Anchor Posts ■ Galvanizing 	<ul style="list-style-type: none"> ■ Wood Posts and Blockouts: ■ mow strip - Hydraulic Cement Concrete (exempt) ■ Composite Material Blocks and Posts: 	

**Block and Post
2806 Required**

**Manufactured Product
No 2806 Required**

- Iron/Steel

NO Change - continue using current process to include Form 1818, MTRs and certifications as required.

- Manufactured Product

- Any Construction Material combined with any other item.
- Any other material (excluding iron/steel) not listed on the right.

NO Form 2806 Required

- Construction Material (CM)

- Non-Ferrous Metals,
- Plastic and polymer-based products (PVC, composite building materials and polymers used in fiber optic cables),
- Glass (including optic glass),
- Lumber, or
- Drywall

Form 2806 REQUIRED

NOTE: Some CM items are classified as exempt.

Form 2806- Construction Materials Buy America Certification



Construction Materials Buy America Certification

Form 2806
(10/2022)
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Per Statewide Special Provision SP 006-030 "Control of Materials", Form 2806 must be completed to certify compliance with Build America, Buy America Act (BABA Act). Construction Materials are classified as an article, material, or supply—other than an item of primarily iron or steel; a manufactured product; cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives—that is or consists primarily of:

- Non-ferrous metals,
- plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables),
- Glass (including optic glass)
- Lumber, or
- Drywall.

The material(s) provided by the listed producer/fabricator and order number below are made in the United States and meet the requirements of the BABA Act.

CSJ: Area Engineer:

Prime Contractor:

Subcontractor:

Item Code:

Producer/Fabricator:

Order Number:

Material:

This is to certify that the material(s) are in conformance with the governing specification(s) and that at least the final manufacturing processes and the immediately preceding manufacturing stage for the construction material occurred in the United States of America. Alterations to this document by any agency other than the Prime Contractor will void the certification.

Submit documentation to support this certificate of compliance for the specified material(s), as requested by the Engineer.

Prime Contractor Representative Name:

Prime Contractor Representative Signature:

Date:

Subscribed and sworn to before me this day of ,

Notary Public:

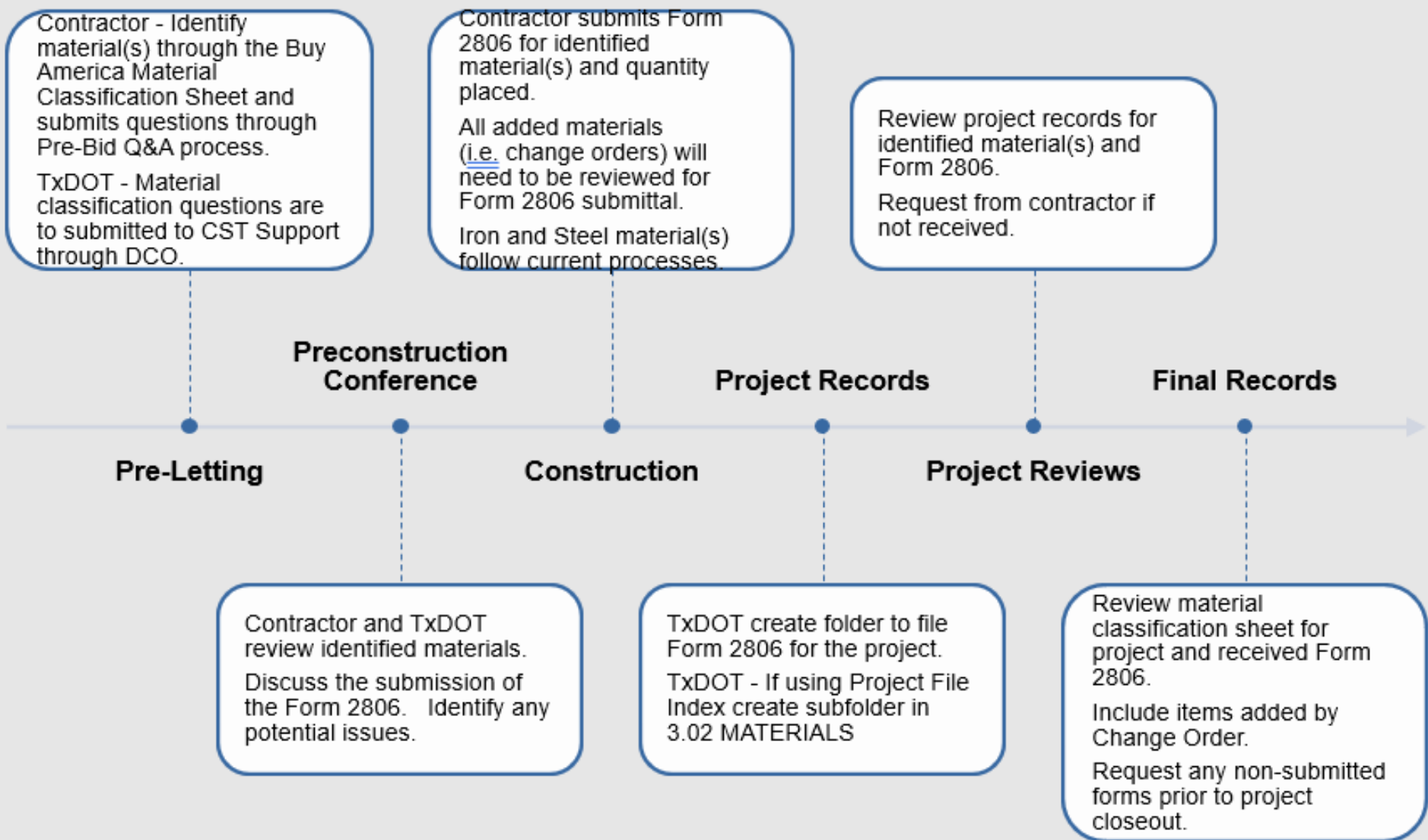
My Commission expires:

What is the Contractor certifying?

1. The materials are in conformance with the governing specification(s) and
2. The final manufacturing process and the proceeding manufactured process occurred in the United States of America.

At this time, TxDOT is not requesting any additional documentation other than Form 2806 for Buy America Compliance of Construction Materials.

Workflow for Expanded Buy America



This is based on the information available at this time.

Buy America Material Classification Sheet:

Item Code	Description	Iron/Steel	Construction Material	Manufactured Product	Notes
0666	Reflectorized Pavement Markings		■ Glass Traffic Beads	■ Traffic Paint ■ Thermoplastic Pavement Markings: ■ Multi-Polymer Pavement Markings	

Project Records Checklist:

ITM_CD	ITM_DESCRIPTION	Required Records	Buy America Documentation Required	Minimum Information Needed in SiteManager and/or Project Files
06666048	REFL PAV MRK TY I (W)24"(SLD)(100MIL)	Obtain material source verification documents for all materials received. ■ Thermoplastic Pavement Markings: - Obtain retroreflectivity data report from a certified provider. - Verify the producer is on the Material Producer List for "Certified Mobile Retro Providers." - Test report the 0666RETRA material code and attach a TXTRAEL template. ■ Multi-Polymer Pavement Markings: Verify the producer is on the Material Producer List for "Pavement Markings (Multipolymer)." ■ Traffic Paint: Verify the producer is on the Material Producer List for "Traffic Paint." ■ Glass Traffic Beads: Verify the producer is on the Material Producer List for "Glass Traffic Beads." ■ Attach SiteManager QM test report for each applicable item. ■ Check for proper labeling.		Show STA and OFFSET, Refer to plan sheet, summary sheet; Readout of retro-reflectivity must be on file; If quantities are provided by Contractor, TxDOT must show that it has been checked, Document if within tolerance

Form 2806

(06/2022)

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Construction Materials Buy America Certification

Per Statewide Special Provision SP 006-030 "Control of Materials", Form 2806 must be completed to certify compliance with Build America, Buy America Act (BABA Act). Construction Materials are classified as an article, material, or supply—other than an item of primarily iron or steel; a manufactured product; cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives—that is or consists primarily of:

- Non-ferrous metals,
- plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables),
- Glass (including optic glass)
- Lumber, or
- Drywall.

The material(s) provided by the listed producer/fabricator and order number below are made in the United States and meet the requirements of the BABA Act.

CSJ: 0123-01-245

Area Engineer: Area Engineer

Prime Contractor: Prime Contractor A

Subcontractor: Subcontractor A

Item Code: 0666 or 0666-6048

Producer/Fabricator: Producer A

Order Number: 12345

Material: Glass traffic beads

This is to certify that the material(s) are in conformance with the governing specification(s) and that at least the final manufacturing processes and the immediately preceding manufacturing stage for the construction material occurred in the United States of America. Alterations to this document by any agency other than the Prime Contractor will void the certification.

Submit documentation to support this certificate of compliance for the specified material(s), as requested by the Engineer.

Prime Contractor Representative Name: Contractor Name

Prime Contractor Representative Signature: Contractor Signature

Date: October 19, 2022

Subscribed and sworn to before me this 19th day of October, 2022

Notary Public: William A. Smith

My Commission expires: October 27, 2025

Example of Completed Form 2806

1. Introduction regarding Form 2806

2. Completed with Project Information:

- CSJ
- Area Engineer
- Prime Contractor Name
- Subcontractor (if applicable)
- Item Code
- Producer/Fabricator
- Order Number
- Material

3. Prime contractor certification, including name, signature and date.

4. Notary information

- Is there a change to existing iron/steel Buy America Requirements?
 - No

- Will the Material Producer List (MPL) be updated?
 - No, due to state jobs do not require the expanded Buy America requirement at this time.

- Do we need to get a new Form 2806 for additional quantity?
 - Yes, when there is a new order number.

- Are the new Buy America Guidelines going to change?
 - Possibly, FHWA has currently left requirements up to the states.

- What documentation are we expecting besides the Form 2806?
 - At this time, TxDOT is not requesting any additional documentation other than Form 2806 for Buy America Compliance of Construction Materials.

- Can a certified invoice be provided as a substitution to Form 2806?
 - No, only Form 2806 is allowed. There are no equivalents or substitutions.
- What if the material is applicable to multiple item codes?
 - List all item codes in the Form 2806.
- What if the Material Classification Changes?
 - Material Classification Sheet will be versioned and stored on the website. Contractors and TxDOT will need to be aware of the Materials Classification specific to their contract.
- Will MPLs still be required to be placed in the project files for those items that are affected by Form 2806?
 - No MPLs are not required to be placed in the project files for any item. The appropriate MPL listing remains part of the material verification process. Form 2806 is part of the Expanded Buy America Process.
- Will a digital copy be acceptable?
 - An electronic version is acceptable.

If you have a question on how a material is classified, contact your District Construction Office who will coordinate with CST Division.

Any questions?

