



November 20, 2019

TO: WSDOT Project Development Engineers

FROM: Steve Roark, State Design Engineer 
Development Division Director

Chris Christopher, State Construction Engineer 
Construction Division Director

SUBJECT: FHWA Clarification Pertaining to Buy America

The Federal Highway Administration (FHWA) has provided clarification regarding the application of Buy America requirements.

As with before, Federal law still requires that any project defined in a Federal record of decision under the National Environmental Policy Act (NEPA) must contain Buy America requirements if the project has received federal funds in any phase (Right of Way, Design, or Construction). If there are multiple projects within the NEPA and at least one of those projects receives Federal funding in any phase, then all construction contracts must contain Buy America mandates.

FHWA has clarified that if a project does not have Federal funding in any phase, and regardless of whether the project has obtained FHWA approval of NEPA or an Access Revision Report, that project's construction contract does not have to comply with Federal Buy America mandates. As a result of this additional guidance, this memorandum replaces the WSDOT Memorandum dated November 7, 2012 with the subject 'Moving Ahead for Progress in the 21st Century (MAP 21) Buy America'.

This new guidance is effective for all projects with an advertisement date after December 1, 2019, and Region Managers should implement this guidance as they deem appropriate. It will be necessary for Region Program Management and Designers to establish whether a contract that is being assembled is included in a NEPA determination and if the Region anticipates using or has used Federal funding in any phase of the project. The Designer will then need to determine if the Buy America specification is required in the contract.

Please give this information appropriate distribution. Additional information may be found at the FHWA websites shown below.

Overview

<http://www.fhwa.dot.gov/map21/summaryinfo.cfm>

To WSDOT PDE's
November 20, 2019
Page 2

Q&A

<http://www.fhwa.dot.gov/map21/qandas/qabuyamerica.cfm>

Please note, the above guidance pertains to FHWA funding sources only. Projects receiving Federal funds from non-FHWA sources must adhere to relevant requirements associated with the specific Federal funding source(s).

If you have any questions, please contact the HQ Design Office for inquiries prior to contract award or the HQ Construction Office for contract compliance related inquiries.

SR:CC:km

cc: Jay Alexander, CPDM
Ahmer Nizam, Utilities
Dave Sowers, Ferries
Megan White, Environmental Services
Kurt Williams, HQ Materials
Susan Wimberly, FHWA