Welcome

The session will start at 9:00am

This session will be recorded.
Agenda

- Ground Rules
- Safety Message (Chris Ernst, UESI)
- DE&I (Buzz Kyler, TxDOT)
- Introduction (Charon Williams, TxDOT ROW Division Deputy Director)
- Presentation: Updates on Buy America Program, Mario Mendez, TxDOT ROW Utility Specialist
- 2021 UESI Conference
- Survey
- Open Discussion and Q&A
- Adjourn
Ground Rules

- Stay muted
- Submit questions in Q&A
- Remain courteous
- Avoid project specific questions:

  *Project specific questions should be submitted to your district utility coordinator as answers could vary depending on specific project information.*
Heat illness signs and symptoms
Watch for signs of heat illness and act quickly. When in doubt, call 911.

If a worker experiences:
- Headache or nausea
- Weakness or dizziness
- Heavy sweating or hot, dry skin
- Elevated body temperature
- Thirst
- Decreased urine output

Take these actions:
- Give cool water to drink
- Remove unnecessary clothing
- Move to a cooler area
- Cool with water, ice, or a fan
- Do not leave alone
- Seek medical care (if needed)
DE&I Moment
Charon Williams, TxDOT ROW Division Deputy Director
Updates to Buy America Program

Mario Mendez, Project Delivery Utility Specialist

July 21, 2021
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Resources

Utility Accommodations Toolkit
Resources

- Utility Accommodations Toolkit
Resources

- Utility Accommodations Toolkit
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- Utility Accommodations Toolkit
Resources

- Utility Accommodations Toolkit
The Utility Accommodations Toolkit provides applicable federal and state laws as well as policies and procedures for carrying out utility accommodations activities on transportation projects. These tools assist with ensuring compliance with subject laws and policies to ensure that impacted utility owners receive full reimbursement of eligible project costs.

**Forms and Publications**
- Utility Forms
- Utility Manual
- Utility Conflict Analysis Template
- Companies with Executed Master Utility Agreements
- SP2125 Fact Sheet

**Federal Codes and Regulations**
- 23 USC 123 - Relocation of Utility Facilities
- 23 USC 312 - Buy America
- 33 CFR 635.415 - Buy America Requirements
- 23 CFR 645 - Utilities
- 49 CFR Subtitle B, Chapter I, Subchapter D - Pipeline Safety

**Joint Trenching Opportunities**
If you are a broadband provider and looking for joint trenching opportunities, please visit our Project Tracker to identify possible opportunities. Please reach out to the appropriate district contact to identify potential joint trenching opportunities.

**State Codes and Regulations**
- Texas Transportation Code Title 6, Subtitle B, Chapter 223, Subchapter A - Texas Public Utility Commission Water & Sewer CCN Viewer
- Texas Public Utility Commission Water & Sewer CCN Viewer
- 43 TAC Part 1, Chapter 21, Subchapter B - Utility Adjustment, Relocation, or Removal
- 43 TAC Part 1, Chapter 21, Subchapter C - Utility Accommodation Rules
- 43 TAC Part 1, Chapter 21, Subchapter D - Utility Accommodation for Rail Facilities

**Training**
- Buy America - Information and Training
Internal Resources

- Utility Accommodations Toolkit

Buy America - Information and Training

Overview

The training material below is intended to assist TxDOT, Utility Companies, Vendors, Manufacturers, and Consultants understand the Buy America Program from beginning to end of a project life cycle to ensure compliance.

The Federal Highway Administration (FHWA) reviewed the Texas Department of Transportation (TxDOT) Buy America Guidelines for Utility Accommodations (document name “Approved Buy America Guidelines” below) and found them to be acceptable for use on Federal-aid Projects. The guidelines are relevant for all federally eligible transportation projects where FHWA is determined to be the lead federal agency.

Resources

- Approved Buy America Guidelines - TxDOT Buy America Guidelines approved by FHWA
- Buy America FAQs - Frequently asked questions regarding Buy America program
- Buy America Program Guide - TxDOT Guide to assist with Buy America requirements on projects
- Utility Coordination Buy America Verification Form (ROW-U-BAV) - Buy America Verification Form used to document verified materials
Resources

ROW100 – Identifying and Managing Utility Conflicts

ROW100 is a 1-day course offered to internal and external stakeholders. During this session, participants learn concepts that help to identify critical utility accommodation factors that contribute to inefficiencies in the project development and delivery processes. These factors include lack of adequate information about the location and other important characteristics of utility facilities that might affect a transportation project. Participants will also be exposed to practical application of these concepts during a hands-on exercise using TxDOT project plans. The target audience includes:

- Utility Coordinators
- Utility Engineers
- Designers
- Project Managers
- Utility Company Representatives
- Traffic Engineers
- Highway/Utility Consultants
- Environmental Staff
- Permit Coordinators
- Surveyors
- Construction Engineers
- Right of Way Agents
- Area Office Staff/Engineers
- Maintenance Employees (Issues permits)
- Local Government Representatives
**Resources**

**ROW101 – TxDOT Utility Coordination**

ROW101 is a 1.5-day course offered to internal and external stakeholders. During this session, participants learn concepts that provide the foundational knowledge and understanding of the TxDOT utility coordination process. Participants will also be exposed to practical application of useful tools and resources available to increase efficiencies and standardize processes. The target audience includes:

- Utility Coordinators
- Utility Engineers
- Designers
- Project Managers
- Utility Companies
- Highway/Utility Consultants
- Permit Coordinators
- Construction Engineers
- Right of Way Agents
- Area Office Staff/Engineers
- Maintenance Employees (Issues permits)
- Local Government Representatives
FHWA – Manufacturing Process
According to FHWA (memo dated July 6, 1989), all manufacturing processes of the steel material in a project (i.e., smelting and any subsequent process which alters the steel material's physical form or shape or changes its chemical composition) must occur within the United States to be considered of domestic origin.
“Domestically manufactured products” are those products manufactured in the United States that have not undergone any manufacturing process outside of the United States that modified the chemical content, physical shape or size, or final finish of the product, beginning with the initial melting and continuing through final shaping and coating.
FHWA Manufacturing Process

Buy America Guidelines

- For example, the creation of steel in any fashion from the iron ore is considered a manufacturing process, and if that process is performed outside the US, the steel is non-compliant, even if the final product was manufactured domestically.

- Raw materials were originally included in Buy America; however, lack of adequate domestic supply resulted in a 1995 nationwide waiver for pig iron and reduced/processed/pelletized iron ore.
2021 TxDOT – FHWA
Buy America Guidelines
The new guidance includes a limited transition period through May 5, 2022 to allow utility companies to perform business operations activities necessary to ensure compliance with the new revisions to the Buy America guidelines regarding manufacturing processes. This transition period is only applicable to the additional material items incorporated into the revised guidelines. Utility companies are still required to be compliant with Buy America guidelines prior to the revision.
The new guidance includes a limited transition period through **May 5, 2022** to allow utility companies to perform business operations activities necessary to ensure compliance with the new revisions to the Buy America guidelines regarding manufacturing processes.

This transition period is only applicable to the additional material items incorporated into the revised guidelines. Utility companies are still required to be compliant with Buy America guidelines prior to the revision.
Guidelines

On federal-aid projects, utility facility owners will use domestically manufactured products that are composed predominately of steel and/or iron to incorporate into the permanent installation of the utility facility — in compliance with the Buy America provisions of 23 CFR 635.410, as amended. Examples of such products may include poles, cross arms, and structural support members; towers and orders used to comprise transmission towers and stand-alone structures; conductor support cables; high-strength bolts used as anchor bolts and anchor rods; iron or steel baseplates; encasement pipes, pipes and valves; rebar and other reinforcing iron/steel for all cast-in-place and precast installations; conduit and ducting; fire hydrants; manhole covers, rims and drop-inlet grates.

According to FHWA (memo dated July 6, 1989), all manufacturing processes of the steel material in a project (i.e., smelting and any subsequent process which alters the steel material’s physical form or shape or changes its chemical composition) must occur within the United States to be considered of domestic origin. “Domestically manufactured products” are those products manufactured in the United States that have not undergone any manufacturing process outside of the United States that modified the chemical content, physical shape or size, or final finish of the product, beginning with the initial melting and continuing through final shaping and coating. For example, the creation of steel in any fashion from the iron ore is considered a manufacturing process; and if that process is performed outside the US, the steel is non-compliant, even if the final product was manufactured domestically. Raw materials were originally included in Buy America, however, lack of adequate domestic supply resulted in a 1996 nationwide waiver for pig iron and reduced/processed/pelletized iron ore.

Prior to the installation of products subject to Buy America compliance, the utility facility owner will submit an executed TxDOT Form 1818 with attached Mill Test Reports, issued and signed by the initial fabricator, supplier or materials or utility owner. Mill Test Reports should state that the materials were manufactured domestically. In certain instances, the utility facility owner may demonstrate Buy America compliance by providing a written certification signed by the vendor or manufacturer on company letterhead or other acceptable documentation signed by an authorized representative declaring that all supplied materials subject to the Buy America provisions are fully compliant. The written certification will include the specific project information pertaining to the Standard Utility Agreement and state that all products that are composed predominately of steel and/or iron were manufactured domestically and in compliance with the Buy America provisions of 23 CFR 635.410, as amended.
Certain utility agreements, executed before Dec. 31, 2013, that do not have federal funding for utility materials or relocation are not subject to Buy America (even if other contracts associated with the project were reimbursed with federal funds). The date of the original utility agreement will be used as the date to determine Buy America compliance if the utility agreement is amended after December 31, 2013 unless the amendment includes major changes in the scope of work.

Bottomments as part of a reimbursable Utility Agreement must be Buy America does not apply to assembly materials, attachment materials, housing encasements, or miscellaneous electronics, as defined above.

Buy America does not apply to existing utility materials that are relocated from one location to another within the project limits.

Buy America does not apply to any materials necessary to repair equipment that was discovered or damaged during construction and requires immediate action to restore to safe conditions or to minimize adverse public impact. However, these materials shall be considered temporary and must be replaced with Buy America compliant material prior to completion of the project.

Buy America does not apply to associated materials necessary for a temporary utility relocation.

Non-domestic iron and steel materials may be used provided the cost of such materials does not exceed one-tenth of one percent (0.1%) of the individual utility agreement amount or $2,500.00, whichever is greater, per 23 CFR 655.410 (b)(4). The De Minimis equation is calculated by the following formula: Combined Cost of Only those Materials that are subject to Buy America and are Non-Compliant (limited to the individual utility agreement) divided by the Total Utility Relocation Cost (cited in the individual utility agreement).

Buy America does not apply if the utility relocation effort is not eligible for federal reimbursement when State law prohibits TxDOT from reimbursing utilities. For example, if the utility owner is required to pay 100% of the entire relocation effort, then the materials associated with that relocation are not subject to Buy America. However, all such work must remain separate from and cannot be accomplished under a utility agreement or contract that includes work eligible for Federal-aid.
2021 TxDOT – FHWA Buy America Guidelines

Buy America: Utility Accommodations

Definitions:

TxDOT intends to use the following definitions to provide clarity and to assist utility-service providers as they develop internal processes to ensure compliance with Buy America.

TxDOT and the utility will identify the proposed utility structures and their components that will be monitored in the Utility Agreement Estimate.

Conductor – A material (specifically wires and cables) that allows the flow of energy including electricity, heat, data, audio/video transmission, etc.

Conductor Support Cables – Iron or steel cables that support conductor lines between towers or poles.

Fittings – Individual parts used to join, adjust or adapt a system of pipes including but not limited to elbows, tees, wyes, crosses, nipples, reducers,
2021 TxDOT – FHWA Buy America Guidelines

**Buy America: Utility Accommodations**

**Definitions:**

TxDOT intends to use the following definitions to provide clarity and to assist utility-service providers as they develop internal processes to ensure compliance with Buy America.

TxDOT and the utility will identify the proposed utility structures and their components that will be monitored in the Utility Agreement Estimate.

**Anchor & High-Strength Bolts** – Anchor & high-strength bolts will be identified and consistently applied. The utility owner and TxDOT will identify anchor & high-strength bolts in the estimate, specifications or plans in the Utility Agreement necessary for the safe and functional design of the utility relocation. If a bolt is not called out as an anchor or high strength bolt the supplied bolt is not subject to Buy America.

**Assembly Materials** (miscellaneous steel) – The collection of miscellaneous materials used to fasten, hold, attach, secure and/or assemble materials including but not limited to nuts, bolts, U-bolts, screws, washers, clips, fittings, sleeves, lifting hooks, mounting brackets, pole steps, clamps, brackets, mountings, straps, fasteners, hooks, pins, braces, disks, clevises, couplers, saws, snips, cramps, trunnions, dead-ends, compression swages, and other miscellaneous metal used to assemble.

**Attachment Materials** – Items or material that is not an integral part or permanently attached to a pole, pipe, or valve. Attachment materials include but are not limited to cross arm bracing, insulators, avion equipment, miscellaneous hardware (as defined below), fittings, racks, ladders, encasements, guy wire, strand, conductors, and tubing 0.75-inch or less in diameter.

**Betterments** – Any upgrading of the facility being relocated that is not attributable to the highway construction and is made solely for the benefit of and at the election of the utility (23 CFR 666.105). Betterments as part of a reimbursable Utility Agreement must be Buy America compliant.

**Conductor** – A material (specifically wires and cables) that allows the flow of energy including electricity, heat, data, audio/video transmission, etc.

**Conductor Support Cables** – Iron or steel cables that support conductor lines between towers or poles.

**Fittings** – Individual parts used to join, adjust or adapt a system of pipes including but not limited to elbows, tees, wyes, crosses, nipples, reducers, end caps, couplers, o-lets, transitions, connectors (steady state, seismic and flexible), unions, mechanical flanges (not permanently affixed to the pipe), bushings, females, gaskets, O-rings, plugs, or tape.

**Girders** – A load bearing beam or strut commonly taking the cross-sectional shape of a circle, square, rectangle, or an I, C, L, or Z, and assembled for the purpose of creating lattice towers, stand-alone platforms or transmission towers.

**Housing Encasements** – Include cabinets, housings, boxes, vaults, covers, shelves, and other items used to protect or house equipment or miscellaneous electronics.

**Lattice Towers** – A structure that is compiled of girders and is typically used in series to support conductor cables.

**Maintenance** – An action or application of materials necessary to keep a system functioning safely and at optimal capacity; general upkeep.

**Miscellaneous Electronics** – Manufactured products or assemblies consisting of many components such as electronic equipment, meters, switches, relays, processors, power supplies, batters, antennas, splice cases, pre-connected hubs and terminals, and cross-boxes.

**Miscellaneous Hardware** – An assembly of small parts that are compiled to form a finished product that is often used independently or as an attachment material, including but not limited to, locks, switches, cutouts, regulators, gauges, meters, barometers, strainers, filters, pilots, arrestors, insulators, bushings, dampeners, needle valves, braces, pipe supports, actuators, motors and pumps.

**Permanent Installation** – Is the final location and final installation of the materials as defined on the plans or in the specifications. No further adjustments or relocations are necessary to accommodate the final transportation project improvements.

**Stand-alone Platforms** – A structure that is compiled of girders and is used to permanently hold or support large equipment.

**Temporary Utility Relocation** – A temporary utility relocation is generally subject to the schedule necessary to accomplish the scope of the project as defined by the NEPA document. A temporary utility relocation is one that is needed to allow the project to proceed, but is not required to remain in its relocation upon completion of the project. For example, if the scope of the project requires the sequential completion of six separate construction contracts, theoretically a temporary utility relocation could remain in place...
### Material Statement

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This is to certify that the materials listed above are in conformity with the governing specifications. This is to also certify that all manufacturing processes for steel and iron materials are in the application of coating (agency, galvanizing, painting) or any other coating that protects or enhances the value of the steel or iron used in these materials. Ordered in the United States of America.

Subscribed and sworn to before me this ______ day of ______, ______.

______________________________, Notary Public

My Commission expires: ________________, ______

I declare under penalty of perjury under the laws of the United States of America and the State of Texas that the foregoing is true and correct and that I am authorized to sign for the Firm listed below.

Authorized Corporate Official Signature: ___________________________ Date: ______

(Type Name and Title)

(Firm Name)
What is the Mill Test Report (MTR)?
- The Mill Test Report is also referred to as the Material Test Report. The MTR certifies: chemical analysis, mechanical properties, conformance to specification (ASME, ASTM, etc.).
- The MTR is supplied by the material, casting, or forging manufacturer.
- The MTR documents the country of origin of the material.

Contents of MTR
- Basic information such as the name of the material manufacturer, material size, weight, material identification and grade.
- Manufacture Location
- Material Heat Number
- Chemical composition analysis test result
The following products, provided by (producer/fabricator) for the above order, are fabricated from steel or iron that is melted and manufactured, and any coating applied, in the United States and meet the requirements of Buy America 23 CFR 635.410:

(Product)
(Product)
(Product)...

This certification has been issued for only the products listed above for domestic compliance. Alterations to this document by any agency other than (producer/fabricator) will void the certification.

Please contact me if you have any questions regarding this certification.
Buy America FAQ’s
Buy America FAQ’s

- The FAQ document has been updated to remove stopple fittings from requiring Buy America compliance. Effective immediately, fittings are classified as an attachment material; therefore, it does not require Buy America compliance.

- Stopple fittings are considered a fitting. If you have older projects where it was required for stopple fittings to be Buy America compliant, simply make a note in your billing submittal “as per the latest Buy America guidelines, a stopple fitting is considered a fitting and therefore does not require Buy America compliance.”
Buy America Guide
The purpose of this document is to provide guidance regarding the Buy America program requirements on utility accommodations eligible for reimbursement.
Buy America Guide

- Table of Contents
  - Purpose
  - Overview
  - Codes and Regulations
  - Initial Coordination Phase
  - Standard Utility Agreement Phase
  - Construction Phase
  - Billing and Invoicing
  - Required Documentation
  - Field Verification
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Buy America Guide

- Roles and Responsibilities
  - Utility Owner / TxDOT District / TxDOT Right of Way Division
    - Initial Coordination Phase
    - Standard Utility Agreement Phase
    - Construction (Prior to Installation) Phase
    - Billing and Invoicing

4. Initial Coordination Phase - Roles and Responsibilities

4.1. Utility Owner
- Utility owner will contact the manufacture(s) regarding the availability of compliant material products. The utility owner will notify TxDOT with steel/iron products that will require longer time to obtain (long lead items) to comply with the provisions.

4.2. TxDOT District
- The TxDOT District will provide the latest Buy America Guidelines and forms to the utility owner, and will communicate early and often regarding Buy America compliance.

4.3. TxDOT Right of Way Division
- Provide guidance, assistance, and training to the District, as requested.
Buy America Guide

- Form 1818 Instructions
  1) Sheet ___ of ___ : Identify the number of sheets if there are multiple forms required
  2) Supplier: Supplier, Vendor, or Distributor's Name
  3) Address: Supplier, Vendor, or Distributor’s Address
  4) Contract No (Optional).: Contract Number between supplier and manufacturer or utility owner
  5) County: County name of proposed project location according to the Standard Utility Agreement
Buy America Guide

- Form 1818
  - This form is to be completed, furnished and signed by the supplier of materials, initial fabricator (manufacturer), or utility owner.
  - Form 1818 will not be acceptable if it is incomplete and not notarized.
Buy America Guide

- What is the Mill Test Report (MTR)?
- Contents of MTR
- Detailed information required on a MTR for compliance
  - Mill Name
  - Documentation Type
  - Purchase order number
  - Location of Manufacturing
  - Material Heat Number
  - Material Description
  - Certified Mill Signature and Date
- Additional information located on MTR
Buy America Guide

- Certification
  - The certification must be signed by an authorized representative, on company letterhead, declaring that all supplied materials subject to the Buy America provisions are fully compliant.
  - Certification should include project information pertaining to the standard utility agreement.
  - Product description name from approved estimate, invoice and certification must be consistent.
Buy America Guide

- Certification Instructions
  1) Company Letterhead: A printed heading on stationery stating an organization’s name and address. It often contains the company logo.
  2) Buy America Certification: Title indicating this is a Certification Letter of Compliance.
  3) Date: Date cannot be prior to procurement of material date.
  4) Customer: Customer who is submitting this certification letter. This should be the manufacturer.
  5) Attention: The person who this letter is being addressed to.
Buy America Verification Form
The field verification form is a recommended form that could be used during the inspection process of the materials that require Buy America compliance.

A TxDOT district employee or consultant working for TxDOT can fill out the verification form.

The purpose of the form is to assist in verifying the material delivered is the same material identified within form 1818.
Buy America Training Video’s
This series of videos is intended to assist utility companies, vendors, manufacturers, and consultants to understand the Buy America Program from beginning to end of a project's life cycle and to ensure compliance.
Buy America Training Video’s

- TxDOT employees are encouraged to view these videos for course credit through "ROW102 - Buy America Requirements for Utility Accommodations“

- You can definitely watch the videos currently published but will need to sign up through ELM for credit.
Need Additional Information on Utility Accommodations?

Visit the ROW Utility Accommodation Toolkit Page on TxDOT.gov
Thank you!