Memorandum

U.S. Department
of Transportation

**Federal Highway
Administration**

Subject: **<u>ACTION:</u>** Buy America Interpretation   Date: June 13, 2011

From: King W. Gee   Reply to
Associate Administrator for Infrastructure   Attn. of: HIF-1

To: Michael Davies
Acting Division Administrator
Albany, NY

This is in response to your February 24, 2011 memorandum that requested our concurrence in the position your office has developed regarding the applicability of Buy America provisions to steel casings used in micropile construction. We agree with your position that since the casings are permanently incorporated into the project, the Buy America provisions apply.. See Question and Answer No. 19: http://www.fhwa.dot.gov/construction/contracts/buyam_qa.cfm.

The Buy America requirements of 23 CFR 635.410 apply to all steel or iron materials that are "used" or "permanently incorporated" in a project. Permanent incorporation includes items that are specified in the contract documents (or bid options specified in the contract documents) that must remain in place at the end of the project. It includes items that are impractical to remove due to design, construction staging or other functional requirements. If an item is specified in the contract documents and it is impossible or impractical to remove the item, then Buy America provisions apply.

Other steel or iron items specified in the contract documents that are not required to be permanently incorporated are considered to be temporary and not subject to coverage. This includes an item that is specified in the contract documents for one stage of the project, but for all practical purposes, may be removed during a subsequent phase (or left in place if requested by the contractor and approved by the contracting agency).

Feel free to call our Buy America program coordinator, Edwin Okonkwo (202-366-1559) if you have any questions.

Note: The contact information in this document is incorrect. See the right-hand column of http://www.fhwa.dot.gov/construction/contracts/110613.cfm for the correct information