



U.S. Department  
of Transportation  
**Federal Highway  
Administration**

*Buy America*  
**Memorandum**

Subject: **INFORMATION:** Buy America Requirements  
Interpretation--Ground Anchors, Soil Nails,  
and Geotech Instruments

Date: DEC 7 1994

From: Acting Chief Construction and  
Maintenance Division

Reply to: HNG-22  
Attn. of:

To: Mr. Leon J. Witman, Jr.  
Regional Federal Highway Administrator (HRA-010)

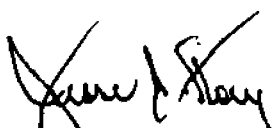
This memorandum responds to and clarifies a recent inquiry by the Region 10 geotechnical engineer, about the application of the Buy America requirements to ground anchors, soil nails, and geotech instruments. The application of Buy America requirements in "temporary" use situations and a definition of "temporary" was the basis of the inquiry.

The Buy America requirements of 23 CFR §635.410 apply to steel and iron materials permanently incorporated into a Federal-aid construction project. Mr. William A. Weseman's December 22, 1993, memorandum relating to ground anchors and soil nails stated that ". . . ground anchors and soil nails are occasionally used in temporary phases of construction and are either removed at the completion of the project, or not required by the contract to remain in place. Steel and iron materials used in this temporary fashion and the coating of these materials are not subject to Buy America requirements."

An August 1, 1990, memorandum by William A. Weseman stated that "The issue of temporary versus permanent steel [and iron] material items used during construction was addressed during rulemaking procedures following enactment of the 1982 STAA (November 25, 1983; 48 FR 53009). Steel [and iron] materials brought to the construction site and permanently incorporated into the completed project as a requirement of the contract, are subject to Federal-aid Buy America coverage. Construction materials, which remain in place at the contractor's convenience, rather than as a contract requirement, are not covered. Thus, in applying Federal-aid Buy America provisions it must be determined if steel [and iron] materials as required by contract plans or specifications [are] to be permanently incorporated into the project."

The question of what is temporary and what is permanent is a very important factor in deciding whether or not the Buy America requirements apply. In summary, when a product containing steel or iron material (e.g., ground anchors, soil nails, geotech instruments, etc.) is required, as a condition of a Federal-aid construction contract, to be used and to remain in place at the conclusion of the project, then the product is subject to the requirements of Buy America. This holds true regardless of the length of remaining service life of the product. The product is considered to have been "permanently incorporated" into the project. On the other hand, if the decision to leave the product on the project is totally at the discretion of the contractor, not

the contracting agency, then the product's use is considered temporary, for Buy America purposes, and Buy America does not apply. If you have any additional questions, please contact Mr. Edward A. Sheldahl of my staff, at (202) 366-0355.

  
Jesse A. Story

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