



**VENTURA COUNTY TRANSPORTATION COMMISSION
TRANSPORTATION TECHNICAL ADVISORY COMMITTEE**

Camarillo City Hall
Administrative Conference Room
601 Carmen Drive
Camarillo, CA

Thursday, December 20, 2012 at 9:00 AM

- Item # 1** Call to Order
- Item # 2** Public Comments
- Item # 3** Approval of November 15, 2012 Minutes
- Item # 4** Caltrans Local Assistance Update
- Receive update from Caltrans Local Assistance staff.
- Item # 5** Revised Route 101/23 Improvement Project Funding Plan
- Approve revised funding plan to increase the Proposition 1B Trade Corridor Infrastructure Fund (TCIF) contribution using \$1,102,000 in other-county cost savings, from \$11,916,000 to \$13,018,000; to increase the Surface Transportation Program (STP) funding by \$602,000, from \$11,916,000 to \$12,518,000; and to reduce the City contribution by an offsetting amount.
- Item # 6** Route 101 Santa Clara River Bridge Environmental Mitigation
- Receive and file.
- Item # 7** MAP-21 Change Regarding Applicability of Buy America Policy to Utility Relocation
- Receive and file.
- Item # 8** Changes to California Building Code, Access Standards
- Receive and file.

Item # 9 2013 TTAC Meeting Schedule

- Approve 2013 Meeting Schedule with meetings continuing to be held at 9:00 am on the third Thursday of every month at Camarillo City Hall.

Item # 10 Future Agenda Items

Congestion Management Program Update /Approval

Periodic Highway Construction Updates

Regional Transportation Funding & Planning

Route 1 Rerouting to Rice Avenue

VCTC Programming Procedures—Potential Revision

Caltrans Presentation on Preliminary Environmental Review

Item # 11 Next Meeting January 17, 2013

**MINUTES OF THE
VENTURA COUNTY TRANSPORTATION COMMISSION
TRANSPORTATION TECHNICAL ADVISORY COMMITTEE
November 15, 2012 Meeting**

Item #1 Call to Order

Chair David Fleisch of the County called the meeting to order at 9:02am.

Item #2 Public Comments

No Public Comments were received at this time.

Item #3 Approval of October 18, 2012 Minutes

Brian Yanez of the City of Santa Paula moved to approve the minutes. Ben Emami of the County seconded the motion and it passed unanimously.

Item #4 Revision to Highway Investment Study Scope and Funding

Peter De Haan presented this item. Staff has been in discussion with Caltrans regarding priorities for use of STIP funds. Two projects: CA-118 improvements and US-101 widening have been identified as top priority projects. TTAC gave input regarding US-101 corridor study and potential auxiliary lane designation prior to next STIP deadline of December 2013. Tom Mericle of the City of Ventura moved to approve the staff recommendation to revise the scope and funding for the Highway Investment Study. Chair Dave Fleisch of the County seconded the motion and it passed unanimously.

Item #5 Revision to Ventura County Surface Transportation (STP) Funds

Ben Emami of the County presented this item. The Pleasant Valley at Sturgis Intersection Project received \$335,000 in STP funding prior to the most recent HSIP cycle, in which the County also received funding from Caltrans. The County requests shifting the previously awarded STP funds to the Pleasant Valley at Fifth Street Intersection Project. Tom Mericle of the City of Ventura moved to approve the staff recommendation to shift \$335,000 in STP funds from the Pleasant Valley/Sturgis Project to the Pleasant Valley/Fifth Street Project. Vice Chair Ken Matsuoka of the City of Camarillo seconded the motion and it passed unanimously.

Item #6 CMAQ, STP and TE Funds Project Status Updates

Peter De Haan presented this item. Project status spreadsheets have been updated to include an additional column that reflects the next step for project submittals. TTAC gave input regarding project statuses and provided positive feedback regarding ease of use of the new spreadsheet. Chair David Fleisch of the County suggested TTAC member staff submit project status updates with track changes to VCTC within two weeks' time, by November 29, 2012. This timeframe will allow VCTC staff to process updates prior to the December TTAC meeting.

Item #7 Caltrans Right-of-Way Certification Process

Tony Johnson, of Caltrans' Local Program Office, presented this item which was outlined in an attached agenda document titled, "Right of Way Certification Package Submittals – Requirements". TTAC member staff provided positive feedback regarding recent turnaround times by Caltrans staff at the Local Program Office; this was confirmed by Caltrans staff observations throughout the District. Caltrans staff emphasized proactive communication in identifying potential conflicts in Right of Way Certifications and that Caltrans staff are constantly available to field such concerns.

Paperwork consistency was also stressed for compliant certifications. Caltrans staff recommended that Right of Way Certification Packages be sent after Design submittals, and in advance of Request for Authorization forms, so that Certification packages can be reviewed while preparing Authorization forms. Project scope and project limits should also be consistent – should revisions occur, it is more acceptable to “downscope” such that construction limits are smaller than environmental clearance limits. With respect to environmental clearance, it was also noted that under MAP-21 a project is “federalized” with the introduction of just \$1 in federal monies into any part of the scope as defined in the environmental document, triggering the “Buy America” [materials] program for the entire scope, although the impact of this change is primarily limited to large project scopes.

Discussion also ensued regarding “inactive status” delineations and Caltrans’ enforcement of requirements for construction invoices every 6 months. At issue is the timing of project processes – from bid approval through contract award and invoicing – such that it is difficult to meet the 6 month invoicing requirement without a high level of project synchronization. Caltrans will consider evaluating the 6 month invoicing requirement.

With regards to questions involving the eligibility of invoicing staff times for project bids under Construction Engineering (CE) scopes, Cynthia Daniels of the City of Oxnard recommended online guidance that will be shared with requesting TTAC members.

Robert Wong of Caltrans suggested further discussions between TTAC and Caltrans, such as this TTAC session, occur more often. Caltrans and TTAC staff concurred with this sentiment, as opposed to doing the same at Quarterly Meetings, given the specificity and intimacy of TTAC meetings.

The meeting was adjourned at 10:49am by Vice Chair Ken Matsuoka of the City of Camarillo.

**TRANSPORTATION TECHNICAL ADVISORY COMMITTEE
NOVEMBER 15, 2012
ATTENDANCE**

<u>Name</u>	<u>Agency</u>
Ben Cacatian	APCD
David Klotzle	Moorpark
Kit Nell	Port Hueneme
Cynthia Daniels	Oxnard
Michael Tohidian	Thousand Oaks
Soher Abdemalik	Oxnard
Ken Matsuoka	Camarillo
David Fleisch	Ventura County
Thang Tran	Camarillo
Robert Wong	Caltrans
Fred Bral	Caltrans
Morris Zarbi	Caltrans
David Sosa	Caltrans
Tony Johnson	Caltrans
Kamran Panah	Simi Valley
Darren Kettle	VCTC
Brian Yanez	Santa Paula
Ben Emami	Ventura County
Will Berg	Port of Hueneme
Peter De Haan	VCTC
James Hinkamp	VCTC



Item # 5

December 20, 2012

MEMO TO: TRANSPORTATION TECHNICAL ADVISORY COMMITTEE
FROM: PETER DE HAAN, PROGRAMMING DIRECTOR
SUBJECT: REVISED ROUTE 101/23 IMPROVEMENT PROJECT FUNDING PLAN

RECOMMENDATION:

§ Approve revised attached funding plan, to increase the Proposition 1B Trade Corridor Infrastructure Fund (TCIF) contribution using \$1,102,000 in other-county cost savings, from \$11,916,000 to \$13,018,000; to increase the Surface Transportation Program (STP) funding by \$602,000, from \$11,916,000 to \$12,518,000; and to reduce the City contribution by an offsetting amount.

BACKGROUND:

At the October meeting the Committee approved the plan to provide \$42 million for construction of the 101/23 Interchange improvement project in Fiscal Year 2012/13, using a combination of STP funds made available due to the passage of MAP-21, TCIF money from cost savings to the Rice/101 Interchange, and City of Thousand Oaks funds to be reimbursed in FY 2015/16 from the State Transportation Improvement Program through AB 3090. The California Transportation Commission (CTC) approved the programming of the \$11,916,000 in TCIF money at its October 24, 2012 meeting.

VCTC has now been informed of project cost savings elsewhere which are to be redistributed among the Southern California counties, with Ventura County's share being \$1,102,000. The TCIF program requires that an eligible project be for goods movement improvements, be ready to start construction by 2013, and have a 50% non-state match. Since the Route 101/23 project has now been identified as a TCIF-eligible goods movement project, and there are no other projects in the county that can meet the requirements to use this \$1,102,000, staff recommends that this \$1,102,000 be applied to 101/23.

To meet the required 50/50 non-state match TCIF requirement, it will be necessary to increase the STP funds for the project by \$602,000. There is sufficient STP programming capacity to increase the STP contribution to the project by this amount.

For TTAC's information at its December 13th meeting, TRANSCOM is scheduled to consider a recommendation to eliminate the \$1.5 million annual STIP contribution for Metrolink rehabilitation, and to fund this activity instead using increased Federal Transit Administration funds for rail rehabilitation provided under MAP-21. By reducing the earlier-year STIP cash flow requirements, this change will facilitate approval of the full reimbursement in FY 2015/16 of Thousand Oaks' contribution to the Route 101/23 project; and in later years there will be increased capacity to fund new highway projects through the STIP.

**PROPOSED REVISED FUNDING PLAN
ROUTE 101 IMPROVEMENTS (PPNO 2291)
(Construction and Construction Support Phases)**

Proposition 1B TCIF – Southern California Corridor	\$13,018,000
Regional Surface Transportation Program – VCTC Apportionment from MAP-21	\$12,518,000
City of Thousand Oaks General Fund Reserve with AB 3090 Cash Reimbursement Agreement from CTC	\$15,964,000
FY 2010 Federal Earmark	\$500,000
Total	\$42,000,000

NOTES:

Prop 1B TCIF: Consists of \$11,916,000 in savings from Rice/101 available for other Ventura County projects, and \$1,102,000 representing Ventura County's share in regional cost savings being distributed among the Southern California Consensus Group counties.

Regional STIP: The project currently has \$20 million of Regional STP programmed in FY 2015/16. Up to \$12 million of this amount can potentially be available now due to the passage of MAP-21. Also, \$500,000 was made available in November by the deprogramming of STP funds for the Highway Investment Study.

Thousand Oaks: The AB 3090 cash reimbursement is from the \$20 million programmed in the STIP for FY 2015/16. The reimbursement can be up to 100% federal funds. The remaining STIP balance would not be needed for the project, and VCTC would request to reprogram the funds in a future STIP.

Match Calculations -

The TCIF funds are matched with the \$12,518,000 in Regional STP and a \$500,000 federal earmark (50/50).

The Regional STP funds are matched with \$1,622,000 of TCIF (88.53/11.47).

The AB 3090 reimbursement (assumed to be 100% federal funds) is matched with \$2,068,000 of TCIF (80/20).

The 2010 Federal Earmark has no match requirement.



Item # 6

December 20, 2012

MEMO TO: TRANSPORTATION TECHNICAL ADVISORY COMMITTEE

FROM: PETER DE HAAN, PROGRAMMING DIRECTOR

SUBJECT: ROUTE 101 SANTA CLARA RIVER BRIDGE ENVIRONMENTAL MITIGATION

RECOMMENDATION:

§ Receive and file.

BACKGROUND:

The new Route 101 Santa Clara Bridge was constructed by Caltrans from 2002 to 2006 as part of a freeway widening project which extended from Vineyard Avenue in Oxnard to Johnson Drive in Ventura. There was \$115 million programmed for the project, including \$60 million from the State Transportation Improvement Program (STIP), \$49 million from the State Highway Operations and Protection Program (SHOPP), and a \$5.85 million federal earmark. The SHOPP contribution to the project was in recognition of the need to replace the old bridge due to scour.

Caltrans has now informed VCTC of a commitment that was made as part of its permits with the Department of Fish and Game, the Regional Water Quality Control Board, and the Army Corps of Engineers, to fund the creation of 10 acres of wetlands and 20 acres of enhanced riparian habitat. According to Caltrans, the permits required this mitigation measure to be completed by 2004, but it was not done due to lack of personnel. The resource agencies have now asserted that the mitigation must be implemented with due diligence, and Caltrans has identified a parcel owned by the Nature Conservancy on which the mitigation can be performed. The Nature Conservancy estimates that the project will cost \$6.5 million, and Caltrans has proposed that the funding be split between STIP and SHOPP in the about same proportions as the original project, with the proposed STIP share being \$3 million. VCTC approval is required to request the CTC to program and allocate the STIP funds, which would be charged against the Ventura County STIP share.

The most critical issue at this time is the difficulty VCTC would face in requesting the CTC to program an additional \$3 million in the current year of the STIP, as such a request would jeopardize approval of VCTC's current request for the full AB 3090 STIP repayment to the City of Thousand Oaks in Fiscal Year 2015/16 for the STIP share of the Route 101/23 project.

Given that the newly-established Transportation Alternatives Program (TAP) under MAP-21 allows for funding of committed environmental mitigation measures, Caltrans staff is researching the possible use of TAP funds for this project. Although the use of STIP funds on the project would be inadvisable at this time, there is a sufficient unprogrammed balance in the Ventura County Surface Transportation Program authorization under MAP-21 to fund VCTC's requested contribution, should TAP be infeasible and the Commission agrees to make the requested contribution. Staff will return to TTAC in January with an update and possible recommendation for action.



Item # 7

December 20, 2012

MEMO TO: TRANSPORTATION TECHNICAL ADVISORY COMMITTEE
FROM: PETER DE HAAN, PROGRAMMING DIRECTOR
**SUBJECT: MAP-21 CHANGE REGARDING APPLICABILITY OF BUY AMERICA POLICY TO
 UTILITY RELOCATIONS**

RECOMMENDATION:

§ Receive and file.

BACKGROUND:

MAP-21 includes a change to the Buy America policy making the policy applicable to all phases of projects having federal participation, including phases with no federal funds. Attached is a question and answer page regarding this MAP-21 change to Buy America, as well as other policy information. Absent more definitive FHWA guidance, it appears that the Buy America policy now applies to utility relocation agreements signed after October 1st for any federal-aid project, regardless of the funding source for the utility relocation.

Buy America Questions & Answers

Posted 9/25/2012

Question 1: Did MAP-21 make any changes to Buy America?

Answer 1: Yes. Section 1518 of MAP-21 amends the Buy America statute at 23 U.S.C. 313 to require the application of Buy America to **all contracts** eligible for assistance under title 23 within the scope of a finding, determination, or decision under the National Environmental Policy Act (NEPA), regardless of funding source, if at least one contract within the scope of the same NEPA document is funded with Federal funding provided under Title 23.

Question 2: What is the effective date of the Buy America amendment of MAP-21 section 1518?

Answer 2: The effective implementation date of section 1518 is October 1, 2012. Thus, on or after October 1, 2012, if one contract within the scope of a NEPA document is awarded using Federal-aid funding, then the Buy America provisions would apply to all contracts within the scope of the NEPA document, regardless of the source of funding. FHWA anticipates issuing a Notice of Proposed Rule Making for those regulations in 2013.

Question 3: Does MAP-21 require States to include Buy America provisions in non-Federal-aid highway contracts?

Answer 3: Yes, if the non-Federal-aid highway contract is included within the scope of a NEPA document and at least one other contract within the scope of the same NEPA document is funded or will be funded with Federal-aid highway funds. Awarding any such non-Federal-aid highway contract on or after October 1, 2012, without applicable Buy America provisions would render all contracts within the scope of the NEPA document ineligible for Federal-aid highway funds.

Question 4: What happens if a project is funded by Federal-aid highway funds on one contract and the project also has a non-Federal-aid highway contract without Buy America provisions and the non-Federal-aid highway contract was awarded before October 1, 2012?

Answer 4: If the non-Federal-aid highway contract without Buy America provisions was awarded before October 1, 2012, then the rest of the contracts within the scope of the NEPA document would remain eligible for Federal-aid funding as long as they contain the Buy America provisions. However, all contracts within the scope of the same NEPA document that are awarded on or after October 1, 2012, must include appropriate Buy America provisions.

Question 5: FTA and FHWA have slightly different Buy America requirements, particularly as they apply to manufactured products. On a project with mixed FTA-FHWA funding, which Buy America rules apply?

Answer 5: Further direction will be coordinated and provided by FHWA and/or FTA at a future date.

Buy America Act vs. Buy American Act

"Buy America" focuses on iron and steel products (created in 1982) and the "Buy American" affects procurement of approximately 100 products (created in 1933). The two programs have very different requirements and processes.

For the Buy America Act: (Three Exceptions are Permitted)

(1) If the State permits alternate bids for foreign vs. domestic steel and iron materials, and the total bid for the contract using foreign steel and iron materials is lower by more than 25 percent than the total bid using domestic source materials;

(2) If the amount of foreign steel and iron materials is minimal, meaning it does not exceed 0.1 percent of the total contract value, or \$2,500, whichever is greater; or

(3) If the FHWA approves a State requested waiver to permit use of foreign steel and/or iron materials.

DIVISION OF LOCAL ASSISTANCE



CALTRANS OVERSIGHT INFORMATION NOTICE



DLA COIN Issue #11-04

Release Date: August 29, 2011

Welcome to the COIN!

This is a Caltrans Oversight Information Notice, or "COIN" for short. These short, single-topic bulletins are intended to provide outreach information and guidance to local agencies on issues pertaining to Federal-aid projects. They cover a wide variety of subjects, including discussions of findings resulting from process reviews by Caltrans and/or FHWA, changes in procedures or regulations, reminders of existing procedures or best practices, and other timely information. The goal is to ensure proper and timely delivery of Federal-aid projects.

TOPIC: Buy America Requirements

Permanent iron or steel materials incorporated on federal-aid transportation projects must meet the "Buy America" requirements of 23 Code of Federal Regulations (CFR) §635.410. Section 12.9, "Required Federal Contract Provisions," subsection "Buy America," of the Local Assistance Procedures Manual (LAPM) provides guidance to local agencies for compliance with "Buy America" requirements.

Recently, a Federal Highway Administration (FHWA) national review team noted "Buy America" concerns with local agencies administering federal-aid projects in California. In multiple instances they observed that required "Buy America" certifications for iron and steel materials were not properly filed in the project records despite the materials having been incorporated into the project and payment being made to the contractor.

Local agencies need to receive "Buy America" certifications when the material is delivered to the project. These certifications need to be reviewed for compliance with "Buy America" requirements and any noted deficiency resolved prior to the material being incorporated into the project and payment being made to the contractor. It is critical that these certifications then be properly filed within the project records for documentation purposes.

Local agencies may also wish to familiarize themselves with FHWA's "Buy America" question and answer link (http://www.fhwa.dot.gov/construction/contracts/buyam_qa.cfm) which clarifies common problem areas and provides helpful information regarding "Buy America."

While "Buy America" provisions do allow use of a small portion of foreign steel and iron materials (less than one tenth of one percent of the total contract cost [0.1%] or \$2500, whichever is greater), the consequences of exceeding this amount are severe. In these instances the project will either lose all federal-aid or be required to remove the foreign materials and replace with domestic materials to comply with "Buy America" requirements. It is important to note that "Buy America" discrepancies discovered by auditors often occur well after the project has been constructed and contract finalized, which greatly complicates the removal and replacement of these materials. Where foreign steel or iron materials are used on a project, it is recommended that the local agency determine the aggregate cost of foreign steel and iron and ensure the threshold allowance is not exceeded. Documentation of any foreign steel or iron material costs should be properly filed in the project records.

The Caltrans Oversight Information Notice (COIN) is prepared by Caltrans, Division of Local Assistance, Office of Policy Development and Quality Assurance. Comments or suggestions regarding this topic should be directed to Ken_Darby@dot.ca.gov

FHWA's Buy America Q and A for Federal-aid Program

Background:

The FHWA's Buy America policies require a domestic manufacturing process for all steel or iron products that are permanently incorporated in a Federal-aid highway construction project. Title 23 Section 313 and FHWA's regulations in 23 CFR 635.410 provide that the Administrator may issue a waiver if, (1) the application of Buy America provisions would be inconsistent with the public interest or (2) iron and steel materials/products are not produced in the United States in sufficient and reasonably available quantities which are of satisfactory quality. The statute and regulations also waive Buy America provisions at the time of contract award if a State elects to include an alternate bidding provision in the project advertisement for foreign and domestic steel and iron products, and the lowest overall bid based on using domestic products is 25 percent more than the lowest overall bid based on using foreign products. Additionally, the FHWA's regulations permit a minimal use of foreign steel and iron in the amount of \$2,500 or one-tenth of one percent, whichever is greater, to be used in a Federal-aid project. Below are questions and answers pertaining to Buy America inquiries that have been presented to the Office of Program Administration. The Office of Program Administration is posting these questions and answers so that FHWA Division Offices, State DOTs, and the general public will be aware of the FHWA's responses.

Policy

Q# 1. Where can I find FHWA's Buy America policies?

A# 1. The FHWA Buy America statutory provisions are in [23 U.S.C.313](#) and the regulatory provisions are in [23 CFR 635.410](#). For other policy and guidance links, see the [Construction Program Guide](#)

Q# 2. Can a waiver be granted for the Buy America requirements?

A# 2. Yes. Under 23 CFR 635.410 (c)(1)(i), a waiver of Buy America requirements may be granted on a **project-by-project** basis if:

The application of Buy America provisions would be inconsistent with the public interest, or

Steel and iron materials/products are not produced in the United States in sufficient and reasonably available quantities which are of a satisfactory quality. Also, FHWA regulations also waive the applicability of Buy America when alternate bidding procedures are used and lowest overall total bid based on using domestic steel is 25% more than the lowest overall total bid based on using foreign steel.

Q# 3. Who may request a Buy America waiver?

A# 3. The (Local Public Agency (LPA)/State DOT) administering the Federal-aid project may request a project specific waiver.

Q# 4. May the FHWA issue a standing national or regional waiver?

A# 4. Yes. FHWA may issue a standing national or regional waiver if it is warranted.

Q# 5. On what basis may a nationwide waiver be granted?

A# 5. A nationwide waiver of a specific iron or steel product may be granted by the Secretary of Transportation if the product is not manufactured in the United States and the public rulemaking process demonstrates that non-domestic availability of the product would adversely impact the Federal-aid program in multiple states, specific region and/or nationwide.

Q# 6. Has FHWA granted any nationwide waivers?

A# 6. Yes. FHWA has granted two nationwide waivers, 1) on February 9, 1994 for ferryboat equipment and machinery parts, and 2) on March 24, 1995 for pig iron and processed, pelletized, and reduced iron ore. For more details, see <http://www.fhwa.dot.gov/programadmin/contracts/020994.cfm> and <http://www.fhwa.dot.gov/programadmin/contracts/032495.cfm>

Q# 7. Who may request a nationwide waiver?

A# 7. The LPAs/State DOTs may request a nationwide waiver.

Q# 8. How often does FHWA approve waivers based on public interest?

A# 8. Not very often. An example of when a public interest waiver may be considered could be during an emergency situation. Another example may be where a certain steel or iron product is to be evaluated on an experimental basis.

Q# 9. What is the FHWA's minimum threshold for Buy America to apply?

A# 9. Per regulation, the FHWA's minimum threshold for Buy America to apply is \$2,500 (the total amount of iron and steel products as delivered to the project) or 0.1% of the total contract amount, whichever is greater.

Q# 10. In emergency situations, does FHWA offer any type of relief to Buy America policy?

A# 10. The Buy America requirements apply during emergency situations. However, when the responsible agency demonstrates that the application of Buy America requirements would be inconsistent with the public interest, or that the necessary steel or iron is not available domestically, the FHWA may grant a waiver.

Q# 11. Can states have Buy America requirements that are more restrictive than FHWA's Buy America?

A# 11. Yes. Under 23 U.S.C. 313(d) and 23 CFR 635.410 (b) (2), State DOTs may establish standard contract provisions requiring the use of domestic materials or products to the same or greater extent than the FHWA Buy America requirements. However, State DOTs cannot establish less restrictive requirements for Federal-aid funded projects.

Q# 12. Do Buy America requirements apply to manufactured products?

A# 12. No. The FHWA's 1983 final Buy America regulations (see <http://www.fhwa.dot.gov/programadmin/contracts/112583.cfm>) waive the application of Buy America to manufactured products that do not include steel and iron components. However, Buy America requirements apply to any steel or iron component of a manufactured product regardless of the overall composition of the manufactured product (e.g. Buy America applies to the steel wire mesh or steel reinforcing components of a precast reinforced concrete pipe).

Project Applicability

Q# 13. Does Buy America apply to recycled steel?

A# 13. No. Although raw materials used in the steel manufacturing process may be imported, all manufacturing processes to produce steel products must occur domestically, including the addition of additives and the application of coatings. However, raw materials such as iron ore, limestone and waste products are not covered. The [FHWA's November 25, 2013 final rule](#) defined waste products to include scrap as steel that is no longer useful in its present form (e.g. steel from old automobiles, machinery, pipe, railroad tracks, etc.).

Q# 14. Do Buy America requirements apply to coating materials and the process of applying a coating?

A# 14. Yes. Section 1041(a) of the 1991 Intermodal Surface Transportation Efficiency Act expressly provides that the application of a coating for iron or steel is subject to Buy America. In 1993, the FHWA amended its regulations at 23 CFR 635.410(b)(1) to implement ISTEA section 1041(a) to clarify that the manufacturing process for the application of a coating is covered by Buy America requirements; however, the material being applied as a coating is not covered under Buy America. A coating means any process that protects or enhances the value of a material or product to which it is applied, such as epoxy coatings, galvanizing or painting.

Q# 15. Does Buy America apply to aluminum products (like aluminum light poles)?

A# 15. No. Buy America applies only to **iron and steel products**.

Q# 16. Can a State DOT apply the Buy America requirements on an incremental basis by allowing a very small amount of foreign steel to be used as the work progresses?

A# 16. No. State DOTs cannot apply Buy America requirements on an incremental basis. A State DOT must track the amount of incorporated foreign steel and iron as the work proceeds to ensure that the minimal use threshold amount is not exceeded at any point in the contract (0.1% of the total contract amount or \$2,500 whichever is greater).

Q# 17. Does Buy America apply if a State DOT makes the cost of eligible iron and steel products Federal-aid non-participating in construction of a Federal-aid project?

A# 17. Yes. Buy America applies to all steel and iron products supplied and permanently incorporated into a Federal-aid project regardless of the funding source actually used to purchase the product.

Q# 18. Does Buy America apply if the steel or iron for a Federal-aid funded project is procured by the State through a separate contract?

A# 18. Yes. Buy America applies to all iron and steel products permanently incorporated into Federal-aid funded project, regardless of how they were procured.

Q# 19. Does Buy America apply to iron and steel (sheet piling, scaffolding, etc) products used on a temporary basis for construction of a Federal-aid project.

A# 19. No. Buy America applies only to iron and steel products required to be permanently incorporated into a Federal-aid construction project. Temporary use means that the contract specifications provide that the iron and steel products used on the project either must be removed at the end of the project or may be removed at the contractor's convenience. Also, where a contracting agency is able to document that phased construction is imminent and the steel or iron product will be removed in subsequent near term stages, then the iron or steel product may be considered temporary and not subject to Buy America. However, if the iron or steel product is required to remain in place at the end of the contract (per contract documents) and where phased construction is not imminent, then the product is deemed permanent and Buy America applies.

Q# 20. Can a State DOT transfer a Buy America waiver granted for an item from one Federal-aid project to another Federal-aid project (i.e. utilize an approved waiver on multiple projects)?.

A# 20. No. Buy America waivers are approved on a **project-by-project basis** and they are not transferable. Therefore a waiver that is approved for one particular project cannot be used on another project. Only a nationwide waiver can be used for multiple projects.

Q# 21. Do Buy America apply to iron and steel products that were competitively procured in one project, for construction of a Federal-aid project?

A# 21. Yes. With accompanying certification showing that the products were manufactured domestically, if they are for permanent installation and a public interest finding as required by 23 CFR 635.407 for the use of state-furnished material.

Waivers

Q# 22. What does the FHWA need in order to consider a project waiver request?

A# 22. The agency administering Federal-aid project submits the waiver request with supporting information to the FHWA Division Office. The Division Office is responsible for ensuring that the request includes the necessary information before the information is submitted to the Office of Program Administration. Relevant supporting information includes the following information:

- the project number,
- project description,
- project cost, waiver item,
- cost of waiver item,
- country of origin of the product (if known at the time),
- reasons for the waiver request,

- a description of the efforts made by the State to locate a domestically manufactured product, and
- an analysis of re-design of the project using alternate or approved equal domestic product.

Q# 23. Has FHWA denied any waiver request?

A# 23. Yes. If FHWA discovers a domestic product during the review of waiver request, the request will be denied. See <http://www.fhwa.dot.gov/construction/contracts/waivers.cfm> for Buy America waiver requests denied.

Q# 24. How often does FHWA receive and approve waivers based on non-availability?

A# 24. FHWA frequently receives Buy America waiver requests and conducts preliminary reviews on each to ensure that waiver request is warranted before they are formally processed. FHWA actually approves most waiver requests that are formally processed because they are usually thoroughly vetted before being submitted for approval.

Q# 25. What is the process for submitting a waiver request?

A# 25. The agency (State DOT/LPA) administering the Federal-aid project is responsible for submitting a waiver request to the FHWA Division Office for preliminary reviews and recommendations. The Division Office will then forward the request to the FHWA's Office of Program Administration for formal in-depth review and for a final decision.

Q# 26. Is a waiver necessary for an item that would otherwise be non-participating?

A# 26. Yes. A Buy America waiver request is necessary for all foreign iron and steel products permanently incorporated into a Federal-aid project even if there is no Federal funding involved in the purchase of the iron and steel products.

Q# 27. What process does the FHWA follow once a waiver request has been submitted to the Office of Program Administration?

A# 27. FHWA's process for reviewing a Buy America waiver request is posted at <http://www.fhwa.dot.gov/construction/contracts/waivers.cfm> in compliance with the Public Law 111.117 "Consolidated Appropriations Act, 2010" and SAFETEA-LU Technical Corrections Bill (Public Law No. 110-244, Section 117).

Counting the Value of Domestic/Foreign Steel

Q# 28. What are the costs associated with the value of iron and steel as delivered to the project?

A# 28. The total cost of iron and steel includes the cost of the material plus the cost of transportation to the project site, as evidenced by delivery receipt, but does not include labor costs involved in final assembly.

Q# 29. If a U.S supplier purchases foreign steel, performs domestic fabrication on the foreign steel and then supplies the fabricated product to a contractor on a Federal-aid construction project, should the cost of domestic fabrication be included as part of cost of foreign steel as delivered to the project?

A# 29. No. Since the regulation requires that all manufacturing process on iron and steel products must take place domestically, the cost of domestic manufacturing process(es) performed on the foreign iron or steel products should not be included in the value of materials as delivered to the project. However, the cost of domestic manufacturing process(es) must be clearly documented.

Q# 30. When a domestic steel product leaves the country for non-domestic fabrication, how should I calculate the value of non-domestic content?

A# 30. Fabrication is a manufacturing process that must take place in the United States. If a domestic steel product leaves the country for non-domestic fabrication, the entire steel product becomes foreign steel.

Other Applicabilities

Q# 31. What Buy America requirements apply to projects funded with ARRA TIGER I funding?

A# 31. For TIGER I grant projects funded solely with TIGER I funds, ARRA Section 1605 applies. Title XII of the Recovery Act specifically provides that ARRA-funded highways are to be administered as if apportioned under chapter 1 of title 23, United States Code. Accordingly, ARRA-funded highway projects are administered in accordance with the requirements of title 23, United States Code, including the provisions of Buy America at 23 USC 313. The implementing regulations are in 2 CFR Part 176, Subpart B. For FHWA TIGER I grant projects funded with either Title 23 funds or regular apportioned ARRA funding, 23 USC 313 applies. The implementing regulations are in 23 CFR 635D. See PO-10 of the ARRA Q&As (<http://www.fhwa.dot.gov/economicrecovery/qandas.htm#a4>).

Q# 32. What Buy America requirements apply to projects funded with TIGER II funds?

A# 32. FHWA projects funded solely with TIGER II funds, or a combination of TIGER II and Title 23 funds, shall apply the 23 U.S.C. 313 requirements if the project is to construct or reconstruct a highway.

Q# 33. Are there differences between Buy America requirements of 23 U.S.C. 313 and Buy Americann requirements of 41 U.S.C. 10a - 10d?

A# 33. Yes. Buy America requirements apply to Federal-aid projects, while the Buy American requirements apply to direct Federal procurement contracts.

Q# 34. Can you apply Buy Americann provisions to Federal-aid projects?

A# 34. No. Buy Americann provisions do not apply to Federal-aid projects. It applies to direct Federal procurement contracts using Federal Acquisition Regulations. However, if a Federal agency is acting as the direct contracting entity for a project involving Federal-aid funding, such as an arrangement between a State DOT and a FHWA Federal Lands Division Office, the project will be procured pursuant to the FAR and Buy American will apply.

Q# 35. Do NAFTA, WTO Agreement on Government Procurement, or other international trade agreements affect the Buy America requirements applicable to the Federal-aid Highway Program?

A# 35. No. The NAFTA agreement expressly exempts grants, loans, cooperative agreements, and other forms of Federal financial assistance from its coverage. The WTO Agreement on Government Procurement, and most other free trade agreements, specifically exclude highway and mass transit projects from coverage. For U. S. international obligations see: <http://www.ustr.gov/trade-topics/government-procurement/us-obligations-under-international-agreements>

Q# 36. Do Buy America provisions apply to Federal-aid construction projects that are not considered to be highway construction?

A# 36. Yes. All iron or steel products that are permanently incorporated in a Title 23-funded project are covered by Buy America requirements. The coverage for Title 23 eligible projects includes projects that may not have been historically considered to be highway construction (e.g. harbor cranes, bicycle racks, railroad stations, trains, motor vehicles, etc).

Q# 37. Does Buy America apply to iron and steel products donated by State DOT, Public Local Agency, or Contractor for construction of Federal-aid projects?

A# 37. Yes. Buy America applies to all donated iron and steel products.

Q# 38. When a project is jointly funded by FHWA and FTA, which Buy America provisions should be used by the contracting agency?

A# 38. When a project combines funding from both the FTA and the FHWA programs, an agency should transfer the project funds to whichever agency is serving as the lead agency. When FHWA funds are transferred to FTA for a transit project, then FTA Buy America requirements apply, and when FTA funds are transferred to the FHWA for a highway project, FHWA Buy America requirements apply. For joint funded projects involving other Federal agencies where there is no established lead agency, 23 USC 313 continues to apply to the FHWA funding and other agencies' requirements apply as well.

Q# 39. For compliance purposes, when does a contractor need to provide a certification that iron and steel products for a Federal-aid project are of domestic products?

A# 39. Certification is required prior to permanent incorporation of iron and steel products into a Federal-aid project.

Q# 40. What is step certification?

A# 40. A step certification is a process under which each handler (supplier, fabricator, manufacturer, processor, etc) of the iron and steel products certifies that their step in the process was domestically performed.

Q# 41. What is "green rod" and is it subject to Buy America coverage?

A# 41. Green rod is basically mild steel that is hot drawn and rolled with scale. It is used by welding rod manufacturers to produce welding rod. Since the green rod is typically an iron/steel product, it is covered by Buy America requirements.

Q# 42. Is welding process covered by Buy America requirements?

A# 42. Yes. All welding process must take place domestically since the welding rod itself is typically an iron/steel product and the welding process substantially alters the rod.

Q# 43. Does Buy America apply to a railroad project involving title 23 funds that is being administered and constructed by a railroad?

A# 43. Yes. All projects funded with title 23 funds are subject to Buy America provisions of 23 CFR 635.410.

[See also Utilities/Buy America Questions and Answers](#)

Q# 44. Do Buy America requirements apply to a utility project being completed by the utility company under State/Utility company agreement and is re-reimbursable with Federal funds?

A# 44. Yes. Note that application of Buy America is triggered by the obligation of Federal funds. If \$1.00 of Federal funds is used in the utility relocation project, Buy America requirements apply.

[See also Utilities/Buy America Questions and Answers](#)

Q# 45. Does Buy America apply to a stand-alone utility project independently let by state DOT with no Federal funds involved, but to accommodate future Federal-aid project?

A# 45. No. Buy America does not apply to a stand-alone project funded with 100% state funds. However, State DOTs may establish standard contract provisions requiring the use of domestic materials or products to the same or greater extent than the FHWA Buy America requirements.

Q# 46. Does Buy America apply to domestic iron/steel products purchased by contractor and shipped overseas for use in physical assembly (i.e. reinforcement bars for formation of concrete pipes, and shapes)?

A# 46. No. Buy America does not apply to iron/steel products shipped overseas strictly for physical assembly. Note that if any of the manufacturing process (bending, extruding, drilling, coating etc.) occurs on the domestic iron/steel product while overseas, the resulting product becomes foreign and does not conform with Buy America requirements.

Q# 47. In using the alternate bid procedure mentioned in 23 CFR 635.410(b)(3), is the comparison for the 25% differential based on the value of the total iron/steel products in each bid?

A# 47. No. The comparison must be between the total lowest bid using domestic iron/steel product and the total lowest bid using foreign iron/steel product. Note that if the state elects to use alternate bid provisions, all bidders must be required to submit a bid based on furnishing domestic iron/steel. The contract must be awarded to bidder who submits the lowest total bid based on furnishing domestic steel, unless this bid is more than 25% higher than the total bid based on foreign steel or iron products

Q# 48. If a project is constructed under multiple contracts, only some of which utilize Federal-aid funding, do Buy America provisions apply only to the Federal contracts?

A# 48. Yes. The application of Buy America provisions is tied to obligation of Federal funds. Federal funds are obligated to a project through the execution of a specific project agreement. If a project is constructed under multiple stand alone contracts, Buy America provisions apply only to contracts utilizing Federal funds. However, the practice of breaking-up a project into multiple contracts to circumvent the Buy America provisions is unacceptable.

Q# 49. How does FHWA resolve an after-the-fact discovery of an inadvertent incorporation of foreign iron and steel products into a Federal-aid project?

A# 49. For resolving an after-the-fact discovery of incorporated foreign iron and steel products exceeding the minimal use amount (the greater amount of \$2,500 or 0.1% of the contract value), FHWA will review the following information to determine the appropriate resolution:

- i. The state's material certification procedures for determining Buy America compliance.
- ii. Degree of diligence by the State DOT and contracting agency in ensuring Buy America compliance.
- iii. Contract provisions prescribing Buy America requirements.
- iv. Availability of domestic iron and steel products or its equivalent at the time when excess foreign iron and steel products were incorporated into the project.
- v. Issues associated with removal and replacement with domestic iron and steel products during construction/completion.

With the Headquarters' concurrence, available options based on the conclusion of the reviews include the following:

- a. Remove the excess foreign iron and steel products and replace with domestic iron and steel products.
- b. Make the non-compliant iron and steel products Federal-aid non-participating.
- c. In instances where there is evidence of carelessness, negligence, incompetence, or understaffing on the part of the contracting agency, the Division Office may determine that all project costs are ineligible.



Item # 8

December 20, 2012

MEMO TO: TRANSPORTATION TECHNICAL ADVISORY COMMITTEE
FROM: STEPHANIE YOUNG, PROGRAM ANALYST
SUBJECT: CHANGES TO CALIFORNIA BUILDING CODE ACCESS STANDARDS

RECOMMENDATION:

- Receive and file.

DISCUSSION:

The California Department of General Services, Division of the State Architect, has submitted a code revision of the California Building Code (CBC) to the Building Standards Commission to modify the accessibility standards to meet or exceed the federal 2010 ADA Standards. These code changes will affect projects with proposed curb ramps or impacts to curb ramps and the adjacent pavement, such as pavement rehabilitation. The effective date is January 2014.

Please see the attached notice from Caltrans regarding specific impacts to agency projects. Additional information can be found at:

<http://www.bsc.ca.gov/codes/adoptcycle/3rd45DayCommentPeriod.aspx>

The California Department of General Services, Division of the State Architect (DSA), has submitted a code revision of the California Building Code (CBC) to the Building Standards Commission (BSC) to modify the accessibility standards to meet or exceed the federal [2010 ADA Standards](#). Once approved, these code changes will affect any highway/street project that proposes curb ramps or impacts existing curb ramps and the adjacent pavement, such as pavement rehabilitation. The effective date is for January 2014.

The BSC has posted the proposed CBC version for the 45 day public commenting period currently running from Oct 26 to Dec 10. Those of you who have submitted comments for the BSC Sept 25-27 public meeting will note that there have been no changes in the proposed CBC version that DSA has submitted to the BSC for the 45 day public commenting period. You can obtain information about the proposed CBC changes and the public commenting form at <http://www.bsc.ca.gov/codes/adoptcycle/3rd45DayCommentPeriod.aspx>. Click on the bar Division of the State Architect - Accessibility (DSA/AC). The proposed code changes can be seen under Express Terms of Chapter 11B. The specific sections pertaining to curb ramps and pavement/shoulders are in 11B-406.

Background

DSA has rewritten the California Building Code (CBC), access provision, for the purpose of obtaining USDOJ certification that the code meets or exceeds the ADA requirements. The model federal code for accessibility is the 2010 ADA Standards, which replaced the ADAAG. The ADAAG and the 2010 ADA Standards were written for buildings and facilities. But, until the federal draft [Public Rights of Way Accessibility Guidelines](#) (PROWAG) is finalized and binding, we have to use applicable portions of the 2010 ADA Standards for our public rights of way projects.

There are problems and impacts to public rights of way that the changes to the CBC creates that affects Caltrans and any other highway/roadway agency subject to the CBC.

Here are the specific issues:

Clear Space Within ETW

In addition to following the 2010 ADA Standards language, the proposed CBC incorporates sections of the draft PROWAG, which isn't even final or adopted by the USDOJ or the USDOT. Much of the draft PROWAG is controversial and Caltrans is on record of opposing some of these provisions. One part of the PROWAG that the proposed CBC is incorporating is a section having to do with a clear space at the bottom of the curb ramp that is out of the traveled way. This will now create a mandated 4 ft shoulder wherever we have a curb ramp. Here is the proposed CBC language:

11B-406.5.9 Clear Space. Beyond the bottom grade break, a clear space 48 inches (1219 mm) minimum by 48 inches (1219 mm) minimum shall be provided within the width of the pedestrian street crossing and wholly outside the parallel vehicle travel lane. At marked crossings, the clear space shall be within the markings.

Incidentally, this same clear space area out of the ETW is in the 2010 ADA Standards. However, it is in the context of a single diagonal curb ramp at the apex of the corner. In this context, it would be out of the ETW, but in the proposed CBC it can apply to the double curb ramp which puts it within the ETW if we have less than a 4 ft shoulder.

Top Landing for Parallel Curb Ramps

By melding the 2010 ADA Standards with language from the draft PROWAG, a mandated top

landing for the parallel curb ramp is now created. No landing requirement is stated in the 2010 ADA Standards for a parallel curb ramp (Case C curb ramp in Standard Plan A88A) because a parallel curb ramp is not mentioned or shown in the illustrations. A perpendicular curb ramp (Case A curb ramp in Standard Plan A88A) is the type shown in the 2010 ADA Standards illustration as having a top landing. See Figure 406.4 below.

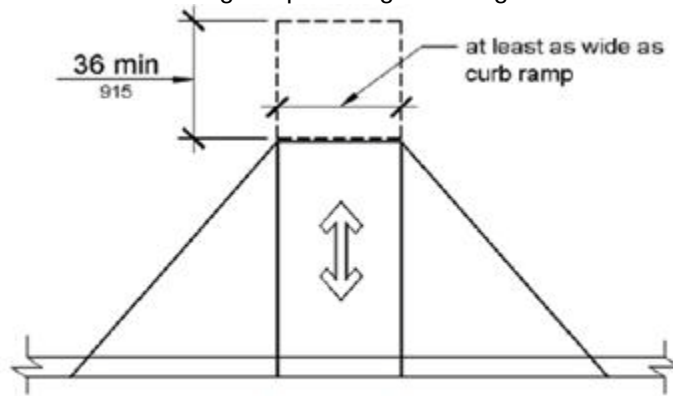


Figure 406.4
Landings at the Top of Curb Ramps

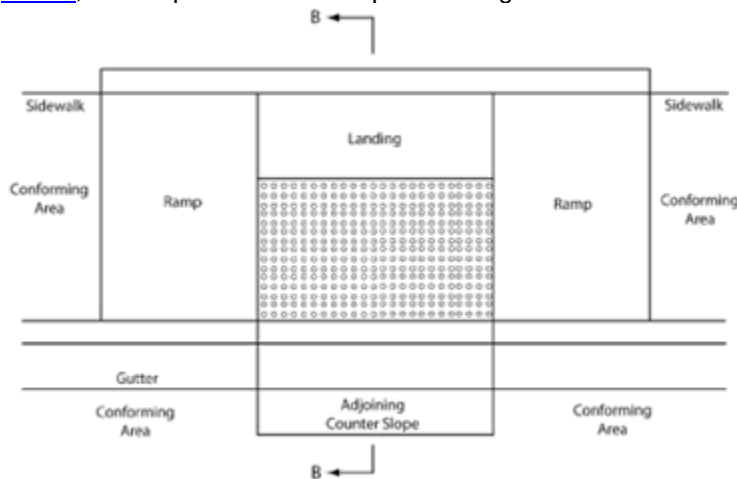
Here is the proposed CBC language:

Under Common Requirements that applies to the perpendicular and parallel curb ramps, it says... *11B-406.5.3 Landings. Landings shall be provided at the tops of curb ramps and blended transitions.*

The landing clear length shall be 48 inches (1219 mm) minimum. The landing clear width shall be at least as wide as the curb ramp, excluding any flared sides, or the blended transition leading to the landing. The slope of the landing in all directions shall be 1:48 maximum.

The complication is created is when the highway is on a grade and the sidewalk follows the same grade. We are currently able to provide a curb ramp that will go from the sidewalk grade to a 1:12 (8.3%) grade for a parallel curb ramp. But, this revision will make us provide a 4 level landing first and then ramp down at 1:12. This is also a problem at corners with driveways near the corner. We will now need extra length to provide a level landing of 4 ft on each side. With a double parallel curb ramp (doubles are an advisory standard in Index 105.5 of the [HDM](#)) this becomes very lengthy and we will have to pursue R/W (easements, fee,...) or have to relocate the private driveway and probably compensate the owner.

Also, we already implied no top landing requirement, in the [Curb Ramp Scoping and Design Memo](#), for the parallel curb ramp. See diagram below.



Pavement Reconstruction

The proposed CBC is continuing the 4 ft language addition to the Counter Slope requirement; the 4 ft is currently in the CBC, which has gone beyond the federal ADAAG or 2010 ADA Standards for years. The 2010 ADA Standards requires a 5% max slope at the adjoining surface at the bottom of a curb ramp; no 4 ft or any dimension is stated. This matches our shoulder cross slope standard in new construction, but over time with pavement overlays the 5% is exceeded. A curb ramp project or a CAPM project is not scoped to do any extensive pavement reconstruction to accommodate the 4 ft at 5% provision. We are able to follow the 2010 ADA Standards requirement because a 4 ft distance is not prescribed; we can handle that in the gutter pan per HDM 303.2, 836.2(2), and Standard Plan A87A Note 10. Here's the wording of the CBC:

11B-406.5.8 Counter Slope. Counter slopes of adjoining gutters and road surfaces immediately adjacent to and within 48 inches (1219 mm) of the curb ramp shall not be steeper than 1:20. The adjacent surfaces at transitions at curb ramps to walks, gutters, and streets shall be at the same level.



Item # 9

December 20, 2012

MEMO TO: TRANSPORTATION TECHNICAL ADVISORY COMMITTEE

FROM: STEPHANIE YOUNG, PROGRAM ANALYST

SUBJECT: 2013 MEETING SCHEDULE

RECOMMENDATION:

- Approve 2013 Meeting Schedule with meetings continuing to be held at 9:00 a.m. on the third Thursday of every month at Camarillo City Hall.

DISCUSSION:

The following is the proposed 2013 Meeting Schedule for the Committee's consideration. This schedule will continue the practice of meeting the third Thursday of the month:

January 17
February 21
March 21
April 18
May 16
June 20
July 18
August 15
September 19
October 17
November 21
December 19