

Illinois Department of Transportation

Division of Highways / Bureau of Construction
2300 South Dirksen Parkway, Springfield, Illinois 62764

Subject:
Domestic Source Requirements
for Small Fasteners less than 1/2"
in Diameter

CONSTRUCTION MEMORANDUM NO. 16-87

Effective: May 1, 2016

Expires: Indefinitely

Purpose

This memo provides direction regarding application of the Federal Highway Administration Buy America Act (23 CFR 635.410) and the Steel Products Procurement Act (30 ILCS 565) for small fasteners less than 1/2" in diameter.

Background

The federal Buy America Act (Buy America) generally requires iron and steel products used in federal-aid highway construction to be domestically produced. However, Buy America does allow for the use of non-domestic iron and steel for small dollar amounts of up to \$2500 or 0.1% of contract value, whichever is greater.

The Illinois Steel Products Procurement Act (Act) requires contract specifications that state iron and steel products used in construction shall be domestically produced. Article 106.01 of the Standard Specifications satisfies this specification requirement. However, the Act does allow for the use of non-domestic iron and steel products as follows:

- 1) Where the contract involves an expenditure of less than \$500,
- 2) Where the executive head of the public agency certifies in writing that:
 - a. The specified products are not manufactured or produced in the United States in sufficient quantities to meet the agency's requirements or cannot be manufactured or produced in the United States within the necessary time in sufficient quantities to meet the agency's requirements,
 - b. Obtaining the specified products, manufactured or produced in the United States would increase the cost of the contract by more than 10%,
 - c. When its application is not in the public interest.

Small Fasteners less than 1/2" Diameter

Small fasteners less than 1/2" in diameter, including associated nuts and washers, are either not made in the U.S., produced in sufficient quantities, or produced within the necessary time in sufficient quantities which results in delayed projects and higher cost for fabrication. As such, the Department considers that in order to serve the public interest the Act be waived for small fasteners less than 1/2" in diameter. On March 9, 2016 the Secretary of Transportation

provided in writing that such enforcement is not in the public interest (see attached Finding of Public Interest).

Article 106.01 provides an exception for the use of domestic steel if, "an exception is expressly permitted under Federal and/or State law and written permission is given by the Department." The signed Finding of Public Interest will serve as the written permission of the Department to exempt small fasteners less than 1/2" in diameter and associated nuts and washers from the Act. However, Buy America requirements shall be fully enforced. The provisions of Buy America allow the use of non-domestically produced iron and steel up to a threshold of \$2,500 or 0.1% of the contract value, whichever is greater.

All other material specifications will be enforced.

A handwritten signature in cursive script that reads "Tim Kell".

Tim Kell, P.E.
Interim Engineer of Construction

Finding of Public Interest

WHEREAS: The Buy America requirements for the Federal-aid highway program (23 CFR 635.410) require iron and steel products permanently incorporated into highway construction to be domestically produced.

WHEREAS: these Federal Buy America requirements includes an exemption for small dollar amounts of up to \$2500 or 0.1% of contract value, whichever is greater, for the use of non-domestic iron and steel.

WHEREAS: The Illinois Steel Products Procurement Act (30 ILCS 565) requires each contract for the construction, reconstruction, alteration, repair, improvement or maintenance of public works made by a public agency contain a provision that steel products used or supplied in the performance of that contract or any subcontract thereto shall be manufactured or produced in the United States.

WHEREAS: The Illinois Steel Products Procurement Act provides the following exemptions:

1. Where the contract involves an expenditure of less than \$500.
2. Where the executive head of the public agency certifies in writing that
 - a. the specified products are not manufactured or produced in the United States in sufficient quantities to meet the agency's requirements or cannot be manufactured or produced in the United States within the necessary time in sufficient quantities to meet the agency's requirements, or
 - b. obtaining the specified products, manufactured or produced in the United States would increase the cost of the contract by more than 10%.
3. When its application is not in the public interest.

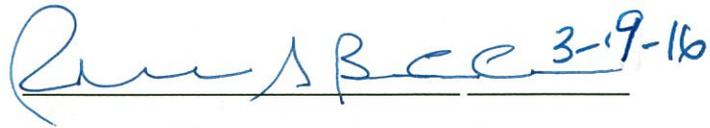
WHEREAS: An exemption for fasteners less than ½" in diameter and associated nuts and washers does not currently exist in the Illinois Steel Products Procurement Act.

WHEREAS: Consistency between federal and state law would streamline certain aspects of administering highway construction contracts.

WHEREAS: The Department expends considerable resources, in the form of staff time, tracking, verifying and documenting the source of fasteners less than ½" in diameter and associated nuts and washers.

WHEREAS: Fasteners less than ½" in diameter and associated nuts and washers are common and/or off the shelf products not made specifically or in supply for public works projects.

THEREFORE: In order to more closely align federal and state requirements, streamline certain contract administration functions, provide a more efficient use of the State's limited resources and reduce the expenditure of continually reducing state dollars, it is in the public interest to exempt fasteners less than 1/2" in diameter and associated nuts and washers from the requirements of the Illinois Steel Products Procurement Act as allowed under the law. The provisions of Buy America will be enforced as required by the Federal Highways Administration's regulatory policy.

 3-19-16

Secretary of Transportation

Date