

Oklahoma Department of Transportation

Unsatisfactory Performance by the Contractor
Construction Control Directive No. **20141024**

October 24, 2014

Scope: To establish a procedure to determine unsatisfactory performance by the Contractor on a construction project and identify the appropriate actions required of the Resident Engineer.

In view of the number of contracts on which performance appears to be of inadequate quality and/or completion will not be within the time specified, withholding the ability for a Contractor to bid future work must be an option considered by the Department. The following procedure has been developed to conform to the requirements of the Standard Specifications Section 102.04 "Refusal of Proposals" and of the Oklahoma Administrative Code 730:25-3-4 "Obtaining Bid Documents (Proposals)".

Due to factors specific to the project such as the shape of the project's S-Curve, disputes, or uncontrollable delays, it may not be necessary to report these issues on some specific projects. The Resident Engineer should discuss these special circumstances with the Construction Division prior to initiation of this procedure.

Procedure:

This procedure should be considered any time the Contractor has demonstrated unsatisfactory performance. Performance may be considered unsatisfactory when one of the following conditions occurs:

- a) Inadequate Progress of the Work - The percent of work completed lags behind the percentage of revised time used by 20% or more (Attachment 1 depicts a typical S-Curve for a project and illustrates the lag in performance which would trigger this procedure) or if the Contractor has other current projects with ODOT in liquidated damages. This procedure will not be initiated until 30% or more of the revised contract time has been used.
- b) Demonstrated Incompetence - Evidenced by substandard ongoing project evaluation(s) (as provided for in Construction Control Directive 20140915), or municipal/citizen complaints.
- c) Failure to Promptly Pay Bills - Evidenced by subcontractor complaint(s), requests for bonding information, or write-up(s) in Contract Compliance Reviews.
- d) Latent Defects on Past Projects - Evidenced by field division complaint(s) or materials lab results.

All evidence must be presented in written form in order to proceed.

Step 1

Upon having a project falling within the unsatisfactory conditions described above, and it has been decided to begin this procedure, the Contractor shall be notified in writing by the Resident Engineer indicating the Department's concern regarding their performance (A sample letter from the Resident Engineer to the Contractor is shown in Attachment 2). The letter shall be sent by certified mail and shall state that not later than 15 days from the receipt of the Resident Engineer's letter to the Contractor, the Contractor shall arrange for a meeting with the Field Division Engineer. At the meeting with Field Division Engineer, the Contractor shall present any information in response to the allegations. In the case of untimely completion, the Contractor must present a schedule which indicates how the Contractor intends to complete the remaining work in the allotted time. If the Field Division Engineer is satisfied with this presentation, the Contractor may continue to maintain its ability to bid on future work. If the information presented at the meeting is not satisfactory or if the actions agreed upon are not implemented within 30 calendar days from the date of the meeting, the issue will be elevated to the Construction Division.

Step 2

Unsatisfactory performance issues which cannot be resolved at the Field Division level shall be elevated to the Construction Division. The State Construction Engineer shall review the information presented by the Field Division Engineer and arrange for a meeting with the Contractor to discuss the withholding of bidding documents in accordance with OAC 730-25-3-4 and Section 102.04 of the Standard Specifications. The Contractor shall be notified in writing by the Director of the outcome of this meeting (A sample letter to the Contractor is shown in Attachment 3).

Step 3

For instances where the Department has decided to withhold bidding documents, the Contractor must resolve the ongoing issues with the Field Division in order to resume bidding status. Upon resolution, the Contractor shall notify the Construction Division of their desire to resume receiving bidding documents. If Construction Division verifies that issues have been resolved satisfactorily, the Office Engineer will be notified that the Contractor may again receive proposals. Office Engineer will prepare a letter for the Director's signature allowing the Contractor to once again obtain bidding documents (A sample letter from the Director to the Contractor is shown in Attachment 4).

Roles and Responsibilities:

Resident Engineers will review the Contractor's performance and report to the Field Division Engineer those firms falling within the unsatisfactory performance range. The Resident Engineer, in consultation with the Field Division Engineer, may initiate a letter to the applicable Contractor, giving notice of the Department's concern regarding their performance.

If the issue is elevated beyond the Field Division Engineer, Construction Division will arrange for a meeting with the Contractor and notify the Office Engineer of the results of that meeting.

If the meeting between the Contractor and Construction Division does not resolve the problem of unsatisfactory performance, then the Office Engineer will prepare correspondence notifying the Contractor that they will not be issued bidding documents until such time as the issues with ongoing work are resolved. All correspondence shall be signed by the Director and copied to General Counsel.

It is the responsibility of the Contractor to notify the Construction Division once the ongoing issues have been resolved through the Field Division and that they request to be eligible to receive bidding documents.

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George Raymond, P.E.
Construction Engineer

Oklahoma Department of Transportation

Contractor's Performance Evaluation Construction Control Directive No. **20141023**

October 23, 2014

Scope: To clarify the procedure for evaluation of the contractor's performance throughout the project, and to provide the form to be used for this evaluation.

Background

As per the Oklahoma Administrative Code (OAC), a contractor may be suspended from doing work with the Department for any one of several reasons. One of these reasons is listed under section 730:25-3-5(b)(1)(D) and states that "Performance suspension may occur for ... A demonstrated lack of proficiency in performing work on Department projects evidenced by performance evaluations of "unsatisfactory" on two (2) ratings in one (1) year."

Additionally, Section 102.04 of the Standard Specifications provides various reasons for which the Department may refuse to issue bid proposals to a contractor.

In October 2007, as part of the Department's effort to improve our Contractor's Prequalification Process, we developed a new Contractor's Performance Evaluation form to replace the Confidential Rating of Contractors form which was in use at the time.

In order to ensure consistency in the application of this form we are issuing this Control Directive to clarify the procedure for evaluation, and to provide the form electronically in SiteManager.

Roles and Responsibilities

At the very least, the performance evaluation form is to be prepared for the Prime Contractor upon completion of the project. However, the form may also be used to report the performance of any Subcontractor, and may be used at any time throughout the course of the project.

The form is to be prepared by the individual designated by the Resident Engineer to do so. The evaluation will then be approved by the Resident

Engineer, and reviewed by the Field Division Engineer.

The Resident Engineer will provide the Contractor and/or Subcontractor with a copy of the report, and will offer them an opportunity to meet and discuss any rating less than six (6.0).

The Resident will submit two copies of the completed evaluation(s) to Construction Division as part of the Final Estimate Packet.

The form to be used is provided electronically in SiteManager at the following location:

Main Panel / ODOT Custom Panel / Contract Specific Reports / Admin / Contractor Rating

Refer to the attached example form and instructions. For further assistance in completing this form or for questions, please contact the Construction Division at 405-521-2561.

A handwritten signature in black ink, appearing to read "G. Raymond". The signature is written in a cursive style with a vertical line at the end.

George Raymond, P.E.
Construction Engineer

OKLAHOMA DEPARTMENT OF TRANSPORTATION

FINAL/PROGRESSIVE PRIME/SUB CONTRACTOR PERFORMANCE EVALUATION

CONTRACTOR NAME	KING CONSTRUCTION CO., INC. & SUBSIDIARIES		CONTRACTOR ID	480679774	
			COMPLETION DATE	November 04, 2013	
PROJECT NUMBER	BRO-127D(171)CI		CONTRACT TIME	120.00	
			ADJUSTED TIME	120.00	
CONTRACT ID	120252	CONTRACT AMT	\$679,607.00	TIME CHARGED	125.00
JPN	2728104	FINAL AMOUNT	\$666,465.06	% ADJ. TIME USED	104.17%

Rate the contractor's performance using the following numerical rating values for each category. Refer to the attached instructions for clarification of the rating values.

10.0 = Excellent	Contractor exceeded project requirements in all areas considered.
8.0 = Good	Contractor exceeded project requirements in two or more areas considered.
6.0 = Satisfactory	Contractor met project requirements in all areas considered.
4.0 = Marginal	Contractor did not meet project requirements in one area considered.
2.0 = Poor	Contractor did not meet requirements in two or more areas considered.

SUPERINTENDANT

CATEGORIES	RATING VALUE	WEIGHTED VALUE
Quality of Work - Consider the project's durability and appearance, the knowledge of the supervisory personnel and compliance with contract requirements including the plans, specifications, and field inspections.	6.00	1.50
Organization and prosecution - Consider the Contractor's ability to diligently prosecute work, within the time specified in the contract, by planning and scheduling labor, materials and the work of subcontractors on the project.	6.00	1.20
Cooperation - Consider the Contractor's willingness to cooperate with property owners, utility companies and local government entities, negotiate contract disputes, respond to reasonable requests by the Resident Engineer and respond to various Departmental correspondence.	6.75	1.01

IF APPLICABLE

Traffic Control & Maintenance of Traffic - Consider the appearance of the traffic control devices, the timely response to repair deficient devices and the Contractor's willingness to comply with the Traffic Control Plan.	<input checked="" type="checkbox"/>	6.00	1.20
Erosion Control - Consider the contractor's proper installation and maintenance of the required erosion control measures, and compliance with the project's Erosion Control Plan and all pertinent laws, permits, and regulations.	<input checked="" type="checkbox"/>	6.00	0.60
EEO, DBE, and Labor compliance - Consider the contractor's compliance with the Equal Employment Opportunity program and compliance with all applicable labor laws, and the timely submittal of certified payrolls, when required.	<input checked="" type="checkbox"/>	6.00	0.60

RATING (total of weighted Values) *ANY RATING LESS THAN 6.0 REQUIRED A COMMENT.

6.11

COMMENTS

Prepared By:
(Rater)

Watson, James D.

September 10, 2014

Approved By:
(Resident Engr/ Mgr)

Watson, James D.

September 10, 2014

Reviewed By:
(Division Engineer)

Oklahoma Department of Transportation

Instructions for Completion of the Final/Progressive Prime/Sub Contractor Performance Evaluation Form

At the very least, the performance evaluation form is to be prepared for the Prime Contractor upon completion of the project. However, the form may also be used to report the performance of any Subcontractor, and may be used at any time throughout the course of the project.

The form is to be prepared by the individual designated by the Resident Engineer to do so. The evaluation will then be approved by the Resident Engineer, and reviewed by the Field Division Engineer.

The Resident Engineer will provide the Contractor and/or Subcontractor with a copy of the report, and will offer them an opportunity to meet and discuss any rating less than six (6.0).

The Resident Engineer will submit two copies of the completed evaluation to Construction Division as part of the Final Estimate Packet.

The form to be used is provided electronically in SiteManager at the following location:
Main Panel / ODOT Custom Panel / Contract Specific Reports / Admin / Contractor Rating

For assistance in completing this form or for questions, please contact the Construction Division at 405-521-2561.

Note: Most of the fields in the header will be filled in automatically.

Contractor Name – Name of the Contractor's company as indicated in the contract.

Contractor ID – Contractor's Vendor ID in SiteManager.

Completion Date - Date on which the project and any exceptions are satisfactorily completed.

Project Number – As indicated in the contract.

Contract ID – Contract identification number (BAMS / SiteManager).

JPN – Job Piece Number as indicated in the contract.

Contract Amt. – Original dollar amount of the project as indicated in the contract.

Final Amount – Dollar amount of the project after completion (original contract amount plus change orders).

Contract Time – Number of days allowed to complete the project as indicated in the contract.

Adjusted Time – Number of days allowed to complete the project after time adjustments (change orders and time and diary reports).

Time Charged – Number of days used to complete the project.

% Adj. Time Used – The percentage of the adjusted time required to complete the project. This is the **Time Charged** divided by the **Adjusted Time**.

Superintendent – Name of the Contractor's authorized representative in responsible charge of the project.

Numerical Rating Values – A numerical code from 0.0 to 10.0 used to rate the Contractor's performance. Assign a numerical code to the nearest tenth (0.1) for each category. Refer to the Numerical Guidelines below for additional clarification.

Weighted Value – The Rating Value of each Category multiplied by that Category's percent of the overall Rating. For example, a rating value of 10.0 on Quality of Work would result in a Weighted Value of 2.50 (10.0 x 0.25). These values will be calculated automatically.

Categories – Various elements of the project to be evaluated for Contractor performance. Refer to the Numerical Guidelines below for additional clarification. Any category with a rating value less than six (6.0) will require a comment.

Rating – The total of the weighted value of the numerical ratings for all six categories.

Comments – Area to make comments. Additional sheets may be used if necessary.

Prepared By – Signed and dated by the individual performing the evaluation.

Approved By – Signed and dated by the Resident Engineer / Manager.

Reviewed By – Signed and dated by the Field Division Engineer.

Numerical Guidelines

Quality of Work

Consider the project's durability and appearance, the knowledge of the supervisory personnel and compliance with contract requirements (i.e. plans, specifications, field inspection, etc.). Twenty-five percent (25%) of the overall Rating.

- 10.0 Contractor exceeded project requirements in all areas considered.
- 8.0 Contractor exceeded project requirements in two or more of areas considered.
- 6.0 Contractor met project requirements in all areas considered.
- 4.0 Contractor did not meet project requirements in one area considered.
- 2.0 Contractor did not meet project requirements in two or more areas considered.

Organization & Prosecution

Consider the Contractor's ability to diligently prosecute work, within the time specified in the contract, by planning and scheduling labor, materials and the work of subcontractors on the project. Twenty percent (20%) of the overall Rating.

- 10.0 Contractor exceeded project requirements in all areas considered and completed the project well ahead of schedule.
- 8.0 Contractor exceeded project requirements in two or more areas considered and the project was completed slightly ahead of schedule.
- 6.0 Contractor met project requirements in all areas considered and the scheduled completion date was met.
- 4.0 Contractor did not meet project requirements within its control in one area considered and occasionally did not work when conditions permitted. The scheduled completion date was met.
- 2.0 Contractor did not meet project requirements in two or more areas considered. The scheduled completion date was not met.

Cooperation

Consider the Contractor's willingness to cooperate with property owners, utilities, and local government entities, negotiate contract disputes, respond to reasonable requests by the Resident Engineer and respond to various Departmental correspondence. Fifteen percent (15%) of the overall Rating.

- 10.0 Contractor exceeded project requirements in all areas considered.
- 8.0 Contractor exceeded project requirements in two or more areas considered.
- 6.0 Contractor met project requirements in all areas considered.
- 4.0 Contractor did not meet project requirements in one area considered.
- 2.0 Contractor did not meet project requirements in two or more areas considered.

Traffic Control & Maintenance of Traffic

Consider the appearance of the traffic control devices, the timely response to repair deficient devices and the Contractor's willingness to comply with the Traffic Control Plan. Twenty percent (20%) of the overall Rating.

- 10.0 Contractor exceeded project requirements in all areas considered.
- 8.0 Contractor exceeded project requirements in two or more areas considered.
- 6.0 Contractor met project requirements in all areas considered.
- 4.0 Contractor did not meet project requirements in one area considered.
- 2.0 Either the Contractor did not meet project requirements in two or more areas considered or the Contractor committed an act or omission which seriously compromised the safety of the public.

Erosion Control

Consider the Contractor's proper installation and maintenance of the required erosion control measures, and compliance with the project's erosion control plan and all pertinent federal and state laws, permits and regulations. Ten percent (10%) of the overall Rating.

- 10.0 Contractor exceeded project requirements in all areas considered.
- 8.0 Contractor exceeded project requirements in two or more areas considered.
- 6.0 Contractor met project requirements in all areas considered.
- 4.0 Contractor did not meet project requirements in one area considered.
- 2.0 Either the Contractor did not meet project requirements in two or more areas considered.

EEO / DBE / Labor Compliance

Consider the Contractor's compliance with the Equal Employment Opportunity program and compliance with the labor laws, including the timely submittal of certified payrolls when required. Ten percent (10%) of the overall Rating.

- 10.0 Contractor exceeded project requirements.
- 8.0 Contractor met project requirements through extraordinary effort and initiative.
- 6.0 Contractor met project requirements with minimum effort and initiative.
- 4.0 Contractor met project requirements, but had to be motivated by Department personnel.
- 2.0 Contractor did not meet project requirements.

Oklahoma Department of Transportation

Buy America
Construction Control Directive No. **20140620**

June 20, 2014

Scope: To establish the procedures for the Department's monitoring and oversight of the Buy America requirements defined in the Standard Specifications and the Code of Federal Regulations (CFR), and to ensure the contractor's compliance with these requirements.

1. Requirements

Subsection 106.01.B of the 2009 Standard Specifications requires that the contractor comply with the Buy America provisions of Title 23 CFR 635.410 which states that all manufacturing processes, including the application of a coating, for all predominantly steel or iron products permanently incorporated into the project shall have occurred in the United States (U.S.).

A product is considered to be manufactured "predominantly of steel and iron" if the product is at least 90% steel or iron content (measured by weight) when it is delivered to the job site for installation. For clarification, a job site includes the sites where precast concrete products are manufactured.

"All manufacturing processes" is defined as any process required to change the raw ore or scrap metal into the finished steel or iron product (smelting, rolling, extruding, bending, etc.).

"Coating" is defined as any process which protects or enhances the value of the steel or iron product to which the coating is applied (epoxy, galvanizing, painting, etc.).

The following materials are exempt, unless processed or refined to include substantial amounts of steel or iron material, and may be used regardless of source in the domestic manufacturing process for steel or iron material:

- Raw Materials (iron ore or alloys)
- Scrap
- Pig iron
- Processed, pelletized, and reduced iron ore material

- Aluminum
- Brass
- Copper

For recycled steel, only the manufacturing processes to produce steel products must occur domestically beginning at the point where the recycled steel is melted.

While the following items may be considered insignificant or non-structural they are still subject to compliance with the Buy America requirements:

- Stay in place forms
- Temporary steel sheeting left in place
- Fencing and associated hardware

The Buy America requirements apply to all projects whether federally funded or not. Failure to comply with these requirements on a federally funded project will result in withdrawal of federal funds from the entire project.

2. Minimal Use Request

The federal regulations allow a minimal use of foreign steel or iron if the cost of such materials does not exceed 0.1 percent of the total contract amount, or \$2,500, whichever is greater. This threshold applies to the cumulative amount of all foreign steel and iron used on the project. The contractor must submit a written request to the Resident Engineer which includes the origin and value of any foreign material to be used. This request must be submitted prior to the work being performed and preferably at the preconstruction conference. The Contractor must track the amount of incorporated foreign steel and iron throughout the life of a project to ensure the minimal use threshold amount is not exceeded. For purposes of this paragraph, the cost is that shown to be the value of the steel and iron products as they are delivered to the project.

Contractor Responsibilities

- Submit a written request to the Resident Engineer which includes the origin and value of any foreign material to be used.
- Attach a completed Certificate of Materials Origin (MDT-2).
- Await written approval from the Resident Engineer prior to incorporating foreign steel or iron into the project.

- Track the value of incorporated foreign steel and iron throughout the life of a project to ensure the minimal use threshold amount is not exceeded.

ODOT Responsibilities

Resident Engineer is responsible for the following:

- Review the submitted MDT-2 and determine if the contractor's request is within the allowable limits for minimal use.
- If the Resident Engineer feels the request is acceptable, contact Construction Division to obtain written concurrence.
- Notify the contractor in writing of acceptance or rejection and document in the project file.
- Track the value of incorporated foreign steel and iron throughout the life of a project to ensure the minimal use threshold amount is not exceeded.

3. Preconstruction Conference Discussion

A discussion of the Buy America requirements for all steel and iron products permanently incorporated into projects should be included in the preconstruction conference and cover the following items:

- Project Specific Certification letters from the Contractor and Subcontractors demonstrating their understanding and intent to comply with the Buy America Requirements (see Section 4.1 for more detail).
- Contractor shall provide a list of all steel and iron products and suppliers to be used on the project (see attached spreadsheet).
- Required documentation verifying compliance with Buy America for each known steel or iron product at the time of the meeting (see Section 4.2)
- Minimal use requests (see Section 2)
- Change order work involving steel must be in compliance and documented similarly to contract work

4. Compliance with Buy America Requirements

The Contractor's responsibility for meeting the Buy America requirements is specified in the contract Special Provision related to Subsection 106.01 of the 2009 ODOT Standard Specifications for Highway Construction. The following are requirements for compliance with Buy America:

- 1) Before any work begins that incorporates steel or iron products into

the project, the contractor shall submit a project specific certification letter stating that all manufacturing processes involved with the production of these products will occur in the U.S., along with project specific certification letters from each subcontractor and supplier for each steel or iron product to be used on the project. Examples of acceptable language for these letters are included in this directive.

- 2) For each steel or iron product, the contractor and subcontractor will be responsible for providing to the Department all documentation required to verify that each product complies with Buy America in accordance with the requirements of the corresponding category listed below. The Contractor must provide a completed:
- Material Use Statement & Certification (MDT-1) for each steel or iron product in Category 1 incorporated into the project.
 - Certificate of Materials Origin (MDT-2) for each steel or iron product in Categories 1 and 2 incorporated into the project.

In most instances, determination of compliance with Buy America requirements should be achieved prior to incorporating the product into the work. If not, the Resident Engineer will be responsible for withholding payment for this work until compliance has been determined.

- 3) For steel or iron products incorporated into the project that the origin was not domestic the contractor may be subject to:
- Removing and replacing the work
 - Forfeiting payment for the work
 - Assessment of penalty

The various steel and iron products (referred to herein as 'steel') that are permanently incorporated into projects have been grouped into the following categories with the roles and responsibilities listed to ensure compliance with the Buy America requirements:

Category 1

General

This category covers major steel items as listed below. For items in this category, the Contractor is responsible for the following:

- Submitting completed MDT-1 and MDT-2 forms for each item with steel to both the Resident Engineer and Materials Engineer.

- The MDT-1 will include the Mill Test Reports, and the MDT-2 will list each corporate entity involved in the manufacturing of the steel item from melting through all fabrication processes.
 - Mill test reports and certification letters must include a statement similar to the following: “All manufacturing processes for these steel and iron products, including the application of coatings have occurred in the United States.”
 - Certifications for a particular item should be retained in one location to allow easy access for auditing purposes.
 - Certifications should be retained by the Contractor until final acceptance of the project.

ODOT Responsibilities

Resident Engineer is responsible for ensuring the following:

- The contractor has submitted a completed MDT-1 and MDT-2, with mill test reports when appropriate, for each steel product used on the project.
- Materials Division has approved the MDT-1 and MDT-2 for each steel product.
- The following has been completed as steel products are brought on site:
 - Compare the steel products and the bill of lading/invoice to the MDT-1 to ensure the material type, quantity and source of the steel products match.
 - For reinforcing steel bars delivered to the project site, compare the bar markings on the bars with the photographs located on the Materials Division website to verify the steel reinforcing bars are from an approved mill located in the United States.
 - Document in the Sample Record “Addtl Sample Data” tab and the appropriate AM template in SiteManager when a steel product was checked for Buy America and if the steel products and bill of lading/invoice match the MDT-1.

Division Auditor is responsible for the following:

- During the Division audit ensure that there is an approved MDT-1 and MDT-2 form for each steel product.

Materials Engineer is responsible for the following:

- Review and recommend acceptance for submitted MDT-1 forms with required material test reports and MDT-2 for each steel product used on the project.
- Distribute notifications to the Resident Engineer and the contractor for all approved and rejected MDT-1 and MDT-2.

- Collect Buy America certifications during inspection of the structural steel items, bridge bearing assemblies and various other items fabricated out of state that will be performed by an independent consultant working under direction of the Materials Engineer.

Items

The steel products covered in this category are as follows:

- Products used in pavements, bridges, or other structures cast at the project site:
 - Structural steel (girders, diaphragms, anchor bolts, high-strength bolts, sealed expansion joints, etc.)
 - Reinforcing steel (epoxy coated or black)
 - Welded wire fabric
 - Steel spiral wire (drilled shaft cages, bridge rail, etc.)
 - Steel piling
 - Drill shaft casing (permanent)
 - Dowel bars and baskets for paving
 - Steel sheet piling (permanent)
 - Bridge bearing assemblies (fixed and expansion)(includes bearing pads)
 - Post-tensioning steel (strands, wedges, anchor plates, etc.)
- Steel monotube structures
- Galvanized steel supports for overhead and cantilevered sign structures
- Guardrail, guardrail posts, end sections, terminals, impact attenuators
- Sign posts and bases (2 ½" diameter and larger and wide flange posts)
- Corrugated steel pipe

Category 2

General

This category covers the steel items as listed below. For items in this category, the Contractor is responsible for the following:

- Submitting completed MDT-2 forms for each item with steel to the Resident Engineer.
- The MDT-2 will list each corporate entity involved in the manufacturing of the steel item from melting through all fabrication processes.
 - The MDT-2 forms should be retained by the Contractor until final acceptance of the project.

ODOT Responsibilities

Resident Engineer is responsible for ensuring the following:

- The contractor has submitted a completed MDT-2 for each steel product used on the project.
- The following has been completed as steel products are brought on site:
 - Compare the steel products and the bill of lading/invoice to the MDT-2 to ensure the material type, quantity and source of the steel products match.
 - Document in the Sample Record "Addtl Sample Data" tab and the appropriate AM template in SiteManager when a steel product was checked for Buy America and if the steel products and bill of lading/invoice match the MDT-2.
 - Compare the manufacturer markings on cast iron products delivered to the project site with the photographs located on the Materials Division website to verify the cast iron products are from an approved foundry located in the United States.

Division Auditor is responsible for the following:

- During the Division audit ensure that there is an approved MDT-2 form for each steel product.

Materials Engineer is responsible for the following:

- Accept, review and approve requests submitted by a fabricator for a product or facility to be placed on the ODOT Materials Division Approved Products List (APL).
- Performs testing of fencing products submitted by the Resident Engineer for their acceptance.

Items

The steel and iron products covered in this category are as follows:

- Cast iron products (frames, grates, hoods, manhole covers, etc.)
- Fencing materials
- Corrugated steel pipe end treatments
- Steel pipe
- Ductile iron pipe
- Underground utility encasement conduit
- Stay in place forms

Category 3

General

This category covers traffic related items which typically have been placed on the ODOT Traffic Engineering Division's Qualified Products List (QPL). For items in this category listed on the QPL, a programmatic Certificate of

Materials Origin (MDT-3) will be on file with the Traffic Division. For items in this category that are not listed on the QPL, the Contractor is responsible for submitting a completed MDT-3 form for each pay item with steel to the Resident Engineer. The MDT-3 lists all corporate entities involved throughout the manufacturing process for each steel and iron product used on the project.

ODOT Responsibilities

Resident Engineer is responsible for ensuring the following:

- Check Traffic Engineering Division's QPL to determine if a steel product is on it and if an MDT-3 form has been completed by the manufacturer of the steel product. If the steel product is not on the QPL and/or a completed MDT-3 form cannot be provided, then contact the Traffic Engineer to add the steel product prior to allowing the contractor to install the item.
- Once the steel product is on the QPL and a completed MDT-3 form has been provided, then the following needs to be completed as that steel product is brought on site:
 - Compare the steel products and the bill of lading/invoice to the MDT-3 to ensure the material type, quantity, and source of the steel products match.
 - Document in the Daily Work Reports when a steel product was checked for Buy America and if the steel products and bill of lading/invoice match the MDT-3.

Division Auditor is responsible for the following:

- During the Division audit ensure that the products are on the QPL for each steel product in this category incorporated into the project.

Traffic Engineering Division is responsible for maintaining a list of approved traffic related items that fall into this category which can be found on the Traffic Division QPL as follows:

- For each steel product on the list, there should be a MDT-3 form completed that includes each corporate entity involved in the manufacturing of the steel item from melting through all fabrication processes.
- For traffic steel items not on the QPL with a MDT-3 form, work with Construction Division on the approval of these items having manufacturers provide each corporate entity involved in the manufacturing of the steel item from melting through all fabrication processes. The manufacturers should complete a MDT-3 for their product.

Items

The steel products covered in this category are as follows:

- Traffic signal poles and mast arm
- Highway lighting poles and mast arm
- High mast lighting towers
- Cable barrier
- Steel electrical conduit
- Sign posts and bases (less than 2 ½" in diameter and square tubing)

Category 4

General

This category covers pre-stressed and precast concrete items receiving full-time inspection by ODOT as the concrete items are cast. Items in this category are required to have a signed and dated project specific certification for each corporate entity involved in the manufacturing of the steel item from melting through all fabrication processes. This includes the Mill Test Reports with a certification from the supplier/fabricator that references the Buy America requirements and lists each corporate entity involved throughout the manufacturing processes. Mill test reports and certification letters must include a statement similar to the following: "All manufacturing processes for these steel products, including the application of coatings have occurred in the United States."

ODOT Responsibilities

Resident Engineer is responsible for the following:

- Ensure all pre-stressed and precast concrete items have an approved inspection mark when they arrive to the project that indicates the Materials Division has verified the pre-stressed and precast items have met the Buy America requirements. Examples of approved inspection marks may be found on the Materials Division website.
- Ensure that the items delivered to the project are listed on a summary letter distributed by the Materials Engineer.
- Document in the appropriate AM template in SiteManager when a Pre-stressed or precast structure arrives on the project including that it was stamped by ODOT and the producer's unique identifying mark and date fabricated.

Materials Engineer is responsible for the following:

- Direct the inspection by an independent consultant of the pre-stressed and precast concrete items.
- Verify the independent consultant inspector completes the following:
 - Ensure mill test reports and certifications are provided from each

corporate entity involved throughout the manufacturing processes of any steel use in the concrete elements.

- Maintain all certifications for steel used in each element and provide the certifications to the Materials Engineer prior to fabrication of the concrete elements.
- Affirm the fabricator identifies each item with a unique identifying mark (i.e. 33-13-20 mk 2, 14).
- Identify accepted items by placing an approved inspection mark prior to shipment, and provide a summary letter approved by a Professional Engineer to the Materials Engineer.
- Maintain all certifications in Materials Division's project files and will not be distributed to the Resident Engineer.
- Distribute or place in SiteManager a copy of the consultant's summary letter for the Resident Engineer's use.

Items

The pre-stressed and precast concrete items covered in this category are as follows:

- Pre-stressed concrete beams and girders
- Precast panels
- Precast MSE and sound walls
- Precast bridge arches

Category 5

General

This category covers non-structural precast concrete items that are not full-time inspected by ODOT. Fabricators for items in this category have been placed on the ODOT Materials Division Approved Products List (APL). The fabricator is required to provide a signed and dated project specific certification listing each corporate entity involved in the manufacturing process from melting through all fabrication processes. The certification must reference the Buy America requirements using a statement similar to the following: "All manufacturing processes for these steel and iron products, including the application of coatings have occurred in the United States." The steel used in the fabrication of these items will be certified by the fabricator for general use in production and cannot be tied specifically to any individual item.

ODOT Responsibilities

Resident Engineer is responsible for the following:

- Ensure all precast concrete items have the official ODOT inspection mark when they arrive to the project that indicates the Materials

Division has verified the precast items from this fabricator have met the Buy America requirements. The official ODOT inspection mark may be found on the Materials Division website.

- Ensure that the items delivered to the project are from a fabricator listed on the Materials Division APL.
- Document in the appropriate AM template in SiteManager when a precast structure arrives on the project including that it was stamped by ODOT.

Material Division is responsible for the following:

- Conduct random checks on precast plants based on a frequency established by Materials Division. During the plant visits, tags on steel products currently being used in the precast items should be checked against certifications kept on file to demonstrate that all manufacturing processes for these steel and iron products including the application of coatings have occurred in the United States.
- Identify accepted items by placing the official ODOT inspection mark prior to shipment.
- The Materials Engineer will maintain all certifications in Materials Division's fabricators files and will not be distributed to the Resident Engineer.

Items

The pre-stressed and precast concrete items covered in this category are as follows:

- Precast box culverts
- Reinforced concrete pipe and precast end sections
- Precast inlets and catch basins
- Precast manholes

Category 6

General

This category covers steel items that are not required to meet Buy America Requirements and is based on FHWA Memorandum, Clarification of Manufactured Products under Buy America, dated December 21, 2012. This memorandum states that miscellaneous steel or iron components, subcomponents and hardware necessary to encase, assemble and construct certain highway products and manufactured products that are not predominately steel or iron are not subject to Buy America coverage.

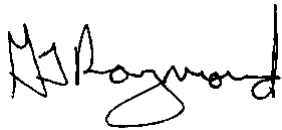
ODOT Responsibilities

Resident Engineer: Ensure all parties involved with this project are aware of the steel products incorporated into this project that fall into this category.

Items

The following items are included in this category:

- Cabinets
- Covers
- Clamps
- Fittings
- Sleeves
- Miscellaneous hardware (washers, bolts, nuts, and screws)
- Tie wire
- Spacers
- Chairs or other steel reinforcement supports
- Lifting hooks
- Pipe Valves
- Electronic components
- Temporary falsework

A handwritten signature in black ink, appearing to read "G. Raymond". The signature is fluid and cursive, with a large initial "G" and a long, sweeping underline.

George Raymond, P.E.
Construction Engineer

Company Name (Prime, Subcontractor or Supplier)
Company Address

Re: Subject Project Number and Job Piece Number

I hereby certify this project will meet the requirements of Buy America in accordance with the Federal Regulations (23 U.S.C. 313 and 23 CFR 635.410) and ODOT Special Provision 106-5. Buy America requires all manufacturing processes, including the application of a coating, for all predominantly steel or iron products permanently incorporated into the project shall have occurred in the United States (U.S.).

A product is considered to be manufactured “predominantly of steel and iron” if the product is at least 90% steel or iron content (measured by weight) when it is delivered to the job site for installation.

“All manufacturing processes” are defined as any process required to change the raw ore or scrap metal into the finished steel or iron product (smelting, rolling, extruding, bending, etc.).

“Coating” is defined as any process which protects or enhances the value of the steel or iron product to which the coating is applied (epoxy, galvanizing, painting, etc.).

I understand that I must comply with Buy America and provide all required documentation prior to incorporating any steel or iron products into the project. Any noncompliance will be justification for rejection of the steel and/or iron products or nonpayment of the work.

I the undersigned hereby certify that I am an authorized agent of XYZ Construction Company.

Name / Title:

Signature:

State of

County of

Signed and sworn to (or affirmed) before me on (date) by name(s) of person(s) making statement).

(Signature of notarial officer)

(Seal)

My commission #

My commission expires:



ODOT MATERIAL USE STATEMENT & CERTIFICATION

Sheet ____ of ____

FABRICATOR/SUPPLIER:	STATE PROJECT NO:
ADDRESS:	J/P: CONTRACT ID:
	COUNTY:
GENERAL CONTRACTOR:	RESIDENCY:

QUANTITY	MATERIAL DESCRIPTION (SIZE-SHAPE)	STEEL MILL	HEAT NUMBER	INTENDED USE

This is to certify that the listed material was used on the above project and the material is in complete conformance with the governing specifications and the attached mill test reports and certificates of materials origin represent the material used. This statement is made for the purpose of establishing the materials acceptance under the Buy America Certification (23CFR 635.410) and the Contract Special Provisions. All iron and steel manufacturing processes, including protective coating, for the domestic materials described above occurred in the United States of America.

Subscribed and sworn to before me this _____ day of _____ Signed: _____
Name of Firm

Notary Public _____

My Commission Expires _____ By: _____



ODOT CERTIFICATE OF MATERIALS ORIGIN

PROJECT NO:		CONTRACT ID:	
COUNTY:	J/P:	RESIDENCY:	
CONTRACTOR:		DATE:	
BID ITEM NAME & NO:		QUANTITY:	
DOMESTIC MATERIALS SOURCE (NAME AND ADDRESS) TO INCLUDE SUPPLIER, FABRICATOR, AND MANUFACTURER			
DOMESTIC MATERIALS DESCRIPTION			
DOMESTIC ENTITIES INVOLVED IN OTHER MANUFACTURING PROCESSES (I.E. GALVANIZATION, EPOXYCOATING, WELDING, BENDING, ETC.)			
MATERIALS OF UNKOWN ORIGIN OR FOREIGN MATERIALS DELIVERED TO THE PROJECT			
<p>This certification is made for the purpose of establishing the materials acceptance under the Buy America Certification (23CFR 635.410) and the Contract Special Provisions. All iron and steel manufacturing processes, including protective coating, for the domestic materials described above occurred in the United States of America.</p> <p>Manufacturer's certificates verify the origin above described in the domestic materials will be kept on file for three years by the supplier following the final payment. Copies will be provided to the Oklahoma Department of Transportations upon their request: I declare under the penalty of perjury under the Oklahoma and Federal Laws that the foregoing is true and correct.</p>			
Supplier Name and Address		Authorized Representative	
		Name: Title: Signature: Date:	