



COMMONWEALTH OF MASSACHUSETTS

MASSTRAILS GRANTS PROGRAM

Buy America

*****Be advised that no Buy America waivers are being granted at this time. Disregard any references below to the waiver process. The federal government has placed the waiver process on hold until new guidance is published regarding the waiver process. There is no timeline for when this guidance will be issued. *****

When proposing to buy a piece of equipment or construction supplies that are made with steel or iron, this activity will fall under the U.S. Department of Transportation Buy America provision described in Title 23 United States Code, Section 313. Buy America laws apply to steel and iron permanently incorporated in a project when the total value of the materials or equipment exceeds \$2,500. The provision requires these materials be melted and manufactured domestically and that documentation is obtained to verify Buy America compliance.

These provisions apply to all materials and equipment permanently incorporated into the project, regardless of whether the items are acquired and paid for with matching funds or donated to the Project Sponsor as part of the project match. Examples of materials that must comply with Buy America include steel bridge girders, steel railings, steel structures, steel trailers, steel structural elements of trailhead facilities, and steel tools and equipment. Steel tools or incidental materials that do not comply with Buy America must be tracked and the total may not exceed \$2,500.

To document Buy America compliance, project sponsors must obtain certification from the manufacturer documenting that all manufacturing processes occurred domestically. This can be in the form of a letter directly from the manufacturer. Certification must be provided with the MassTrails Grant Application and retained in the project files.

Resource: [Companion Resource for Buy America Field Compliance \(dot.gov\)](https://www.transportation.gov/intermodal/intermodal-transportation-trust-fund/intermodal-transportation-trust-fund-2015-act/intermodal-transportation-trust-fund-2015-act-2015-act)

The following instructions must be followed in order to receive a MassTrails reimbursement for your equipment or materials purchase:

First,

1. Verify if a product that is a part of a MassTrails project consists of steel or iron.
2. If yes, determine if the proposed products are or are not Buy America compliant.

Then,

3. Is the value of the iron or steel less than \$2,500? If so, Buy America does not apply to the purchase.
4. Seek out an alternative if the equipment does not comply with Buy America requirements. Unless you can prove that there are no Buy America compliant alternatives available and/or you cannot

alter your project to purchase a compliant product, you will have to purchase the alternative, Buy America-compliant item instead.

5. If necessary, determine if a waiver can be sought for the product (see Waiver Process).

Finally,

6. Provide documentation as required for any of the above scenarios, *or*;
7. If none of the above apply, provide a Certification from the vendor to verify that the purchase is in compliance with Buy America. *This should always be the priority option.*

Waiver Process:

1. Notify the MassTrails Grant Administrator as soon as you determine that you will need to seek a waiver – immediately after the grant award letter is received is recommended.
2. Prepare documentation as outlined in the summary below to support your waiver need (page 3).
3. Submit the documentation to the MassTrails Grant Administrator.
4. Expect a wait time of 3-6 months before a waiver is granted and plan accordingly.

Certification of Compliance:

Where domestic material is supplied, prior to incorporation into the project, the contractor/vendor shall furnish to the Grantee a certificate of compliance (such as may be furnished by steel mill test reports) that all steel and/or iron products supplied to the project except as may be permitted (one-tenth of one percent of the total contract cost or \$2,500, whichever is greater) and permanently incorporated into the work satisfies the domestic requirements herein. This certification shall contain a definitive statement about the origin of all products covered under the provisions of Buy America as stated herein. The Grantee must submit this certification with the MassTrails Grant Application to be considered for funding.

In lieu of the contractor/vendor providing personal certification, the contractor may furnish a stepped certification in which each handler of the product, such as supplier, fabricator, manufacturer, processor, etc. furnishes an individual certification that their step in the process was domestically performed.

For equipment purchases under MassTrails, a letter from the manufacturer certifying that the equipment was manufactured in the United States can be provided and this can be considered the certificate of compliance.