



United States Department of Agriculture  
Rural Development

RD AN 4477 (1924-A, 1942-A,  
1942-C, 1942-G, 1780)

TO: State Directors, Rural Development

ATTN: Community Programs Directors, Business Programs Directors, Housing Programs Directors, State Engineers, and State Architects

FROM: signed Dallas Tonsager 10-02-09  
Under Secretary  
Rural Development

SUBJECT: Application of Buy American Requirements to Projects Funded with American Recovery and Reinvestment Act Funds

**PURPOSE/INTENDED OUTCOME:**

The purpose of this Administrative Notice (AN) is to provide guidance to Rural Development (RD) State Office staff regarding the Buy American requirements contained in Section 1605 of the American Recovery and Reinvestment Act of 2009 (ARRA) and 2 CFR 176 and the applicability of these requirements to RD projects.

The intended outcome is to instruct and inform RD State Office staff on how to implement these requirements to ensure compliance with Section 1605 of the ARRA.

This AN does not apply to guaranteed loans. A subsequent AN will be issued when the Office of Management and Budget issues guidance on guaranteed loans.

**COMPARISON WITH PREVIOUS AN:**

No previous AN has been published on this subject.

**BACKGROUND:**

Section 1605 of the ARRA requires that projects funded in whole or part under ARRA, for the construction, alteration, maintenance, or repair of a public building or public work use iron, steel, and manufactured goods produced in the United States unless a specified exception applies. Recipients of Federal assistance under ARRA must ensure that design professionals, contractors, subcontractors, and suppliers comply with these requirements.

**EXPIRATION DATE:**

October 31, 2010

**FILING INSTRUCTIONS:**

Preceding RD Instructions 1924-A,  
1942-A, 1942-C, 1942-G, 1780

**IMPLEMENTATION RESPONSIBILITIES:**

If ARRA funds are included, in whole or in part, in a project involving a public building or public work, then all construction, alteration, maintenance, and repair are subject to the requirements of Section 1605. Section 1605 does not apply if the funds are used for the construction, alteration, maintenance, or repair of a privately-owned building or work. Because of the exemption for privately-owned facilities, Single Family Housing programs, some Business programs, and not-for-profit recipients of Community Facility and Water and Waste Disposal programs are not subject to this requirement.

RD staff should notify interested applicants of the requirements of Section 1605 at the earliest possible point in the application process. The award official is responsible to indicate that the award is made under ARRA and is subject to the Buy American requirements of Section 1605 of ARRA. The award official shall ensure that the language from Exhibit 1 (2 CFR 176.140) is provided to the award recipient with the Letter of Conditions Award officials shall ensure that recipients of ARRA funds comply with all requirements of this AN.

RD staff should not provide applicants, recipients and consulting architects and engineers with preliminary decisions regarding whether specific iron, steel, and manufactured goods are considered produced in the U.S., but may provide general guidance to assist applicants, recipients and consulting architects and engineers in making the appropriate evaluations and preparing justifications. If an applicant, borrower, or grantee requests an exception, USDA is responsible for making determinations in accordance with 2 CFR 176.80(b) (see Exhibit 2).

Recipients that do not comply with these requirements shall be subject to enforcement actions (2 CFR 176.130).

**Definitions (2 CFR 176.30 and 176.70 (referencing 2 CFR 176.140 and 176.160)):**

“Award official” means a person with the authority to enter into, administer, and/or terminate financial assistance awards and make related determinations and findings.

“Manufactured good” means a good brought to the construction site for incorporation into a building or work that has been:

- (a) processed into a specific shape or form or
- (b) Combined with other raw material to create a material that has different properties than the properties of the individual raw materials.

“Produced in the United States”:

Iron and steel are considered produced in the United States if all manufacturing processes, except metallurgical processes involving refinement of steel additives, take place in the United States

Manufactured goods are produced in the United States if manufacturing (the finished manufactured goods, not necessarily the component parts) takes place in the United States. Manufacturing includes processing the item into a specific shape or form or combining it with other raw materials to create a material that has different properties than the properties of the individual raw materials. There are no

requirements for domestic components or subcomponents, including iron and steel components and subcomponents.

“Public building” or “public work” means a public building of, or public work of, a governmental entity, including regional and local governmental entities. This definition does not include privately owned buildings.

“Recipient” means any entity other than an individual that receives any ARRA funds in the form of a grant, cooperative agreement, or loan directly from the Federal Government.

**Policy (2 CFR 176.70):**

None of the funds appropriated or otherwise made available by the ARRA may be used for a project for the construction, alteration, maintenance, or repair of a public building or public work unless the following requirements are met:

1. The public building or public work is located in the United States.
2. All the iron, steel, and manufactured goods used in the project are produced or manufactured in the United States.
  - a. Production in the United States of the iron or steel requires that all manufacturing processes must take place in the United States, except metallurgical processes involving refinement of steel additives. These requirements do not apply to iron or steel used as components or subcomponents of manufactured goods used in the project.
  - b. There is no requirement with regard to the origin of components or subcomponents in manufactured goods used in the project as long as the manufacturing occurs in the United States.

**International Agreements:** While international agreements under § 1605(d) of ARRA may be applicable to projects involving public buildings and public works, implementation of international agreements will be administered by the National Office.

**Step by Step Exception (Waiver) Process:**

**Request for Exception:** The applicant is responsible for requesting an exception to ARRA Buy American requirements. However, RD staff may provide general guidance to assist applicants, recipients and consulting architects and engineers in making the appropriate evaluations and preparing justifications. Project specific exceptions may not be used unless requested by the applicant, reviewed by the State Office, and approved by the Secretary of Agriculture. The National Office may issue categorical exceptions, which address classes of exceptions and may affect more than one project.

The State Office will follow the process described in Exhibit 4 to process a request for an exception. Proper and sufficient explanation and justification, including written documentation and data, must be provided by the applicant or recipient. A checklist detailing the types of information required for an exception to be processed is attached as Exhibit 5. Requests for exceptions will be reviewed by the State Office to ensure the information described in Exhibit 6 is included in the request.

If all required documentation in sufficient quantity is included in the request, the State Office will provide the Rural Development Buy American Coordinator (BAC) with the required information via the Rural Development Buy American SharePoint site to be added to the Team RD SharePoint website. The RD BAC will notify the State Office of the approval or

disapproval of any requested exception and the award official will notify the recipient and revise any Letter of Conditions or to indicate any iron, steel, or manufactured goods not produced in the United States, but allowed in the project. The National Office will publish a notice of any approvals by the Secretary in the Federal Register within two weeks of the determination.

**Justifications (2 CFR 176.80):** Any exception must be based on one of the following three justifications:

1. Nonavailability. Iron, steel, or relevant manufactured goods are not produced or manufactured in sufficient and reasonably available commercial quantities of a satisfactory quality.
2. Unreasonable cost. The cost of domestic iron, steel, or relevant manufactured goods will increase the cost of the overall project by more than 25 percent. or
3. Public interest. The application of these restrictions would be inconsistent with the public interest.

**Timeliness of Request for Exception (2 CFR 176.120):** Most requests for exception to Buy American requirements will likely come forward at two points in a project: first, based on the design where the applicant identifies key materials (iron and steel) or equipment (manufactured goods) that are unavailable domestically or available only at an unreasonable cost; or, second after evaluation by prospective bidders and their consultation with suppliers determines that iron, steel, or manufactured goods as required by the design are unavailable domestically or available only at an unreasonable cost. Because of the nature of the design and bidding process, a potential recipient could request an exception at either or both points in the project. It is also possible to request an exception after bids are opened or after construction has initiated. RD strongly recommends if a request for exception is necessary, the applicant should submit the request before construction has been initiated.

Any such request shall be submitted in accordance with the requirements, if any, of a published Notice of Funds Availability and should include all the information shown in sections (c) and (d) of Exhibit 1. Such a request may be accepted by the award official prior to other application materials or with the application for funds.

If an applicant's request for an exception is submitted prior to or with an application and is approved by the Secretary, any exceptions to the Buy American restrictions will be listed in the Letter of Conditions as shown in section (b)(2) of Exhibit 1.

Any request after the signing of the construction contract must include an explanation of why the recipient could not reasonably foresee the need for such determination and could not have requested it prior to obligation. If a satisfactory explanation is not submitted, the request may be rejected.

Because of the need for timely requested exceptions, it is strongly encouraged that recipients hold pre-bid conferences with potential bidders. A pre-bid conference can help identify iron, steel, and manufactured goods needed to complete the project as described in the plans and specifications that may not be available from domestic sources and the need to seek a request for exception prior to bid, and can help inform the recipient on compliance options.

**Amendment of Award:** If any post-obligation requests are approved by the Secretary of Agriculture, the award official will amend the award to allow use of the excepted foreign iron, steel, or relevant manufactured good(s). The following additional steps will be taken by the award official depending upon the basis for the determination:

1. Nonavailability or Public Interest - amend the award to reflect adjustment of the award amount, redistribute budgeted funds, and/or take other actions to cover costs associated with acquiring or using the foreign iron, steel, or manufactured goods.
2. Unreasonable cost - adjust the award amount or redistribute budgeted funds as needed to ensure sufficient funds to cover at least 125% of the total project cost calculated using the cost of domestic iron, steel, and manufactured goods.

**Vehicles:** As previously stated in this AN, if any ARRA funds are included in a project, all construction, alteration, maintenance, and repair are subject to the requirements of Section 1605. In addition, to further support the objectives of ARRA and guidance provided by President Obama, Rural Development is requiring that any vehicles purchased with ARRA funds must also be manufactured in the United States. Requests for exceptions relating to vehicles shall be processed in the same manner as requests for iron, steel, or manufactured goods, however, approval may be granted by the respective agency Administrator, or designee, if adequate justification is provided. Requests for exceptions need to include a detailed justification that explains why an exception should be granted. Requests may be based on the following factors: non-availability, unreasonable cost, or inconsistency with the public interest.

**Items Determined to be Nonavailable:** Items listed in 48 CFR 25.104(a) are unavailable. These include: spare and replacement parts for equipment of foreign manufacture, and for which domestic parts are not available, wood products, including logs, veneer, and lumber of Alaskan yellow cedar, angelique, balsa, ekki, greenheart, lignum, vitae, mahogany, and teak, petroleum, crude oil, unfinished oils, and finished products, and rubber (crude and latex).

**Construction Contract Provisions:** The State Engineer or State Architect will ensure that the provisions, attached at Exhibit 3, are added to the construction contract documents.

**Construction Phase Requirements – Noncompliance (2 CFR 176.130):** The RD award official has several responsibilities regarding enforcement of the Buy American Provisions in ARRA, including the following:

1. Review of all allegations of violations;
2. Unless fraud is suspected, notify the borrower or grantee of any unauthorized use of foreign iron, steel, or manufactured goods and request a reply with proposed corrective action;
3. If review reveals that foreign iron, steel, or manufactured goods were used without authorization, take one of the following actions:
  - a. Process an applicant's post-obligation request for an exception.
  - b. Require the removal and replacement of unauthorized foreign iron, steel, and /or manufactured goods.
  - c. Determine in writing that the unauthorized foreign iron, steel, and /or manufactured goods need not be removed and replaced. To make this determination, the removal must be impractical, cause undue delay, or otherwise be detrimental to the interests of the federal government. This determination does not prevent the government from reducing the amount of financial assistance by the cost of the foreign iron, steel, or manufactured goods or taking enforcement or termination action against the contractor or owner.
  - d. Additional remedies may include withholding cash payments pending correction of the deficiency, suspension or termination of an award, and

withholding further awards for the project. Also, referrals to the Agency Suspension and Debarment official in accordance with RD Instruction 1940-M and referral to the Office of the Inspector General may be considered for serious or fraudulent violations.

4. Report all allegations of violations to National Office Director, Program Support Staff (PSS) for Community Facilities and Business Programs or Director, Engineering and Environmental Staff (EES) for the Water and Waste Disposal Program within 30 days of notification.

**Purchase of Equipment and Materials:** Materials and equipment purchases are only subject to the requirements of Section 1605 of ARRA if the equipment or materials are to be incorporated into a project for construction, alteration, maintenance, or repair.

Attachments

## Exhibit 1

2 CFR 176.140

### **REQUIRED USE OF AMERICAN IRON, STEEL, AND MANUFACTURED GOODS— SECTION 1605 OF THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009**

(a) Definitions. As used in this award term and condition—

“Manufactured good” means a good brought to the construction site for incorporation into the building or work that has been--

- (1) Processed into a specific form and shape; or
- (2) Combined with other raw material to create a material that has different properties than the properties of the individual raw materials.

“Public building” and “public work” means a public building of, and a public work of, a governmental entity (the United States; the District of Columbia; commonwealths, territories, and minor outlying islands of the United States; State and local governments; and multi-State, regional, or interstate entities which have governmental functions). These buildings and works may include, without limitation, bridges, dams, plants, highways, parkways, streets, subways, tunnels, sewers, mains, power lines, pumping stations, heavy generators, railways, airports, terminals, docks, piers, wharves, ways, lighthouses, buoys, jetties, breakwaters, levees, and canals, and the construction, alteration, maintenance, or repair of such buildings and works.

“Steel” means an alloy that includes at least 50 percent iron, between .02 and 2 percent carbon, and may include other elements.

(b) Domestic preference.

(1) This award term and condition implements Section 1605 of the American Recovery and Reinvestment Act of 2009 (ARRA)(Pub. L. 111-5), by requiring that all iron, steel, and manufactured goods used in the project are produced in the United States except as provided in paragraph (b)(3) and (b)(4) of this term and condition.

(2) This requirement does not apply to the material listed by the Federal Government as follows:

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[Award official to list applicable excepted materials or indicate “none”]

(3) The award official may add other iron, steel, and/or manufactured goods to the list in paragraph (b)(2) of this term and condition if the Federal government determines that—

- (i) The cost of the domestic iron, steel, and/or manufactured goods would be unreasonable. The cost of domestic iron, steel, or manufactured goods used in the project is unreasonable when the cumulative cost of such material will increase the cost of the overall project by more than 25 percent;
- (ii) The iron, steel, and/or manufactured good is not produced, or manufactured in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or
- (iii) The application of the restriction of section 1605 of the ARRA would be inconsistent with the public interest.

(c) Request for determination of inapplicability of Section 1605 of the ARRA.

(1)(i) Any recipient request to use foreign iron, steel, and/or manufactured goods in accordance with paragraph (b)(3) of this term and condition shall include adequate information for Federal Government evaluation of the request, including—

(A) A description of the foreign and domestic iron, steel, and/or manufactured goods;

(B) Unit of measure;

(C) Quantity;

(D) Cost;

(E) Time of delivery or availability;

(F) Location of the project;

(G) Name and address of the proposed supplier; and

(H) A detailed justification of the reason for use of foreign iron, steel, and/or manufactured goods cited in accordance with paragraph (b)(3) of this term and condition.

(ii) A request based on unreasonable cost shall include a reasonable survey of the market and a completed cost comparison table in the format in paragraph (d) of this term and condition.

(iii) The cost of iron, steel, and/or manufactured goods material shall include all delivery costs to the construction site and any applicable duty.

(iv) Any recipient request for a determination submitted after ARRA funds have been obligated for a project for construction, alteration, maintenance, or repair shall explain why the recipient could not reasonably foresee the need for such determination and could not have requested the determination before the funds were obligated. If the recipient does not submit a satisfactory explanation, the award official need not make a determination.

(2) If the Federal government determines after funds have been obligated for a project for construction, alteration, maintenance, or repair that an exception to section 1605 of the ARRA applies, the award official will amend the award to allow use of the foreign iron, steel, and/or relevant manufactured goods. When the basis for the exception is nonavailability or public interest, the amended award shall reflect adjustment of the award amount, redistribution of budgeted funds, and/or other actions taken to cover costs associated with acquiring or using the foreign iron, steel, and/or relevant manufactured goods. When the basis for the exception is the unreasonable cost of the domestic iron, steel, or manufactured goods, the award official shall adjust the award amount or redistribute budgeted funds by at least the differential established in 2 CFR 176.110(a).

(3) Unless the Federal Government determines that an exception to section 1605 of the ARRA applies, use of foreign iron, steel, and/or manufactured goods is noncompliant with section 1605 of the American Recovery and Reinvestment Act.

(d) Data. To permit evaluation of requests under paragraph (b) of this term and condition based on unreasonable cost, the Recipient shall include the following information and any applicable supporting data based on the survey of suppliers:

TABLE 1: FOREIGN AND DOMESTIC ITEMS COST COMPARISON

Description	Unit of Measure	Quantity	Cost (Dollars)*
<b>Item 1:</b> Foreign steel, iron, or manufactured good			
Domestic steel, iron, or manufactured good			
<b>Item 2:</b> Foreign steel, iron, or manufactured good			
Domestic steel, iron, or manufactured good			

**[List name, address, telephone number, email address, and contact for suppliers surveyed. Attach copy of response; if oral, attach summary.]**

**[Include other applicable supporting information.]**

**[\* Include all delivery costs to the construction site.]**



United States Department of Agriculture  
Rural Development

## **Exhibit 2**

### **2 CFR 176.80(b) Exceptions**

(b) When a determination is made for any of the reasons stated in this section that certain foreign iron, steel, and/or manufactured goods may be used -

(1) The award official shall list the excepted materials in the award; and

(2) The head of the Federal department or agency shall publish a notice in the Federal Register within two weeks after the determination is made, unless the item has already been determined to be domestically nonavailable. A list of items that are not domestically available is at 48 CFR 25.104(a). The Federal Register notice or information from the notice may be posted by OMB to Recovery.gov. The notice shall include -

(i) The title "Buy American Exception under the American Recovery and Reinvestment Act of 2009";

(ii) The dollar value and brief description of the project; and

(iii) A detailed written justification as to why the restriction is being waived.

### Exhibit 3

#### Construction Contract Provisions

Advertisement for Bids: This contract is expected to be funded in whole or in part using funds from the American Recovery and Reinvestment Act (ARRA). Section 1605 of the ARRA prohibits the use of these funds unless all iron, steel, and manufactured goods are produced in the United States. All iron and steel manufacturing processes must take place in the United States, except for metallurgical processes involving refinement of steel additives. There is no requirement for the origin of components and subcomponents of manufactured goods. Products listed at 48 CFR 25.104(a) have been determined to be unavailable in the United States and if required for the project may be purchased from foreign sources. No unauthorized use of foreign iron, steel, and/or manufactured goods will be allowed on this project. {The following exceptions apply to this project:}

Information for Bidders: This contract is expected to be funded in whole or in part using funds from the American Recovery and Reinvestment Act (ARRA). Section 1605 of the ARRA prohibits the use of these funds unless all iron, steel, and manufactured goods are produced in the United States. All iron and steel manufacturing processes must take place in the United States, except for metallurgical processes involving refinement of steel additives. There is no requirement for the origin of components and subcomponents of manufactured goods. Products listed at 48 CFR 25.104(a) have been determined to be unavailable in the United States and if required for the project may be purchased from foreign sources. No unauthorized use of foreign iron, steel, and/or manufactured goods will be allowed on this project. {The following exceptions apply to this project:}

Supplemental General Conditions: This contract is funded in whole or in part using funds from the American Recovery and Reinvestment Act (ARRA). Section 1605 of the ARRA prohibits the use of these funds unless all iron, steel, and manufactured goods are produced in the United States. All iron and steel manufacturing processes must take place in the United States, except for metallurgical processes involving refinement of steel additives. There is no requirement for the origin of components and subcomponents of manufactured goods. Products listed at 48 CFR 25.104(a) have been determined to be unavailable in the United States and if required for the project may be purchased from foreign sources. No unauthorized use of foreign iron, steel, and/or manufactured goods will be allowed on this project. {The following exceptions apply to this project:}

## Exhibit 4

State Office Responsibilities -Step-by-Step Processing of Requests for Exceptions to Buy American Requirements of ARRA. The State Office is responsible to review Requests for Exceptions for quantitative compliance and not qualitative sufficiency. The RD BAC Technical Team is responsible for qualitative sufficiency.

1. An applicant or recipient of ARRA funds may submit a request for an exception from the requirements of the Buy American provision, section 1605 of ARRA. A recipient request to use foreign iron, steel, and/or manufactured goods shall include adequate information for Federal Government evaluation of the request including all the information listed at 2 CFR 176.140(c) and (d) (see Exhibit 1.)
2. The State Engineer or Architect ensures that the exception is needed. If the State Engineer or Architect does not think the exception is needed, such as would be the case if a product were available from a source where it was produced in the United States or were substantially transformed in the United States such that it may be considered produced in the United States, then the request may be considered unnecessary.
3. The State Engineer or Architect reviews all submitted requests for compliance. If the State Engineer or Architect determines that the request contains the required documentation as shown in Exhibit 6, and if the exception is needed, the State Engineer or Architect will submit the request to the National Office. The review by the State Engineer or Architect is limited to ensure that the request is timely (or includes an explanation of why the request could not have been made before the construction contract was signed) and includes sufficient documentation to support the justification(s).
4. If the State Office concurs with the State Engineer or Architect determination, the request is submitted to the Rural Development Buy American Coordinator (BAC) at the National Office via the ARRA SharePoint website. A copy of the request should be provided to the Assistant Administrator or Deputy Administrator of the specific program.
5. The BAC will be responsible for ensuring review of the request at the National Office through oversight of a cross functional "Technical Team". The BAC will also obtain signatures, including that of the Secretary of Agriculture for any exception requests recommended for approval.
6. If any request is not recommended for approval, the BAC will notify the State Office. In any case where approval is not recommended by the National Office, the State Office will notify the applicant or recipient that the request was denied and that use of iron, steel, and manufactured goods produced in the United States is required.
7. If the Secretary approves a request, the BAC will notify the State Office and ensure that a Federal Register notice is published within two weeks of the determination as required by OMB regulations.
8. Upon receipt of notice of approval by the Secretary, the State Office will notify the applicant or recipient of funds. As soon as the determination is made, the applicant or recipient may proceed with the project using iron, steel, or manufactured goods not produced in the United States per the approved exception request.
9. Letters of Conditions must be modified after any approval by the Secretary to clarify specifically which items not produced in the United States are authorized for use in the project.

## Exhibit 5

**The purpose of this checklist is to ensure that all appropriate and necessary information is submitted to RD. Please review this checklist and provide all required information to RD. This checklist is for informational information purposes only and does not need to be included as part of exception request.**

Items	✓	Notes
<p>General</p> <ul style="list-style-type: none"> <li>❖ Exception request includes the following information:               <ul style="list-style-type: none"> <li>○ Description of the foreign and domestic construction materials</li> <li>○ Unit of measure</li> <li>○ Quantity</li> <li>○ Price</li> <li>○ Time of Delivery or availability</li> <li>○ Location of the construction project</li> <li>○ Name and address of the proposed supplier</li> <li>○ A detailed justification for the use of the foreign construction materials</li> </ul> </li> </ul>		
<p>Cost</p> <ul style="list-style-type: none"> <li>❖ Exception request includes the following information:               <ul style="list-style-type: none"> <li>○ Price Comparison Worksheet shown in Table 1 from Exhibit 1</li> <li>○ Relevant documents used to complete the Price Comparison Worksheet</li> <li>○ Supporting documentation indicating a reasonable survey of the market, such as a description of the process for identifying suppliers and a list of contracted suppliers</li> </ul> </li> </ul>		
<p>Availability</p> <ul style="list-style-type: none"> <li>❖ Exception request includes the following supporting documentation necessary to demonstrate the availability, quantity, and/or quality of the materials for which the exception is requested:               <ul style="list-style-type: none"> <li>○ Supplier information or pricing information from a reasonable number of domestic suppliers indicating availability/delivery date for construction materials</li> <li>○ Documentation of efforts to find available domestic sources, such as a description of the process for identifying suppliers and a list of</li> </ul> </li> </ul>		

<p>contacted suppliers</p> <ul style="list-style-type: none"><li>○ Project schedule</li><li>○ Relevant excerpts from project plans, specifications, and permits indicating the required quantity and quality of construction materials</li></ul> <p>❖ Exception request includes a statement confirming the non-availability of the domestic construction materials for which the exception is sought</p>		
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## Exhibit 6

**To be completed by the State Engineer or Architect for quantitative purposes. Review all requests using the questions in this checklist and mark the appropriate box as Yes, No, or N/A. If any of the marks fall in a No box, the request should be rejected as not complete and returned to the applicant.**

Review Items	Yes	No	N/A	Comments
<p>General</p> <ul style="list-style-type: none"> <li>❖ Does the exception request includes the following information:               <ul style="list-style-type: none"> <li>○ Description of the foreign and domestic construction materials</li> <li>○ Unit of measure</li> <li>○ Quantity</li> <li>○ Price</li> <li>○ Time of Delivery or availability</li> <li>○ Location of the construction project</li> <li>○ Name and address of the proposed supplier</li> <li>○ A detailed justification for the use of the foreign construction materials</li> </ul> </li> <li>❖ Does the exception request indicate if it is submitted before the construction contract was signed?</li> <li>❖ If the construction contract was signed, does the exception request include a document detailing the reasons for the late request?</li> </ul>				
<p>Cost</p> <ul style="list-style-type: none"> <li>❖ Does the exception request include the following information:               <ul style="list-style-type: none"> <li>○ Price Comparison Worksheet shown in Table 1 from Exhibit 1?</li> <li>○ Relevant documents used to complete the Price Comparison Worksheet?</li> <li>○ Supporting documentation to indicate a reasonable survey of the market, such as a description of the process for identifying suppliers and a list of contracted suppliers?</li> </ul> </li> </ul>				
<p>Availability</p> <ul style="list-style-type: none"> <li>❖ Does the exception request include the</li> </ul>				

<p>following supporting documentation necessary to demonstrate the availability, quantity, and/or quality of the materials for which the exception is requested:</p> <ul style="list-style-type: none"> <li>○ Supplier information or pricing information from a reasonable number of domestic suppliers indicating availability/delivery date for construction materials?</li> <li>○ Documentation of efforts to find available domestic sources, such as a description of the process for identifying suppliers and a list of contacted suppliers?</li> <li>○ Project schedule?</li> <li>○ Relevant excerpts from project plans, specifications, and permits indicating the required quantity and quality of construction materials?</li> </ul> <p>❖ A statement confirming the non-availability of the domestic construction materials for which the exception is sought?</p>				
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## Exhibit 7

### **Sample certification letter to be completed by the consulting engineer or architect.**

XYZ Engineers, Inc.  
A Street  
Anytown, USA 12345

Mayor  
Town of Borrower  
Main Street  
Borrower, State 12345

Re: Subject Project

Dear Honorable Mayor:

I have reviewed the plans, specifications, and bidding documents for the subject project. I hereby certify that these documents are in compliance with the Buy American provisions, section 1605 of the American Recovery and Reinvestment Act of 2009. I also certify that all iron, steel, and manufactured goods referenced in the documents are either produced in the United States or the subject of a waiver of the requirement as approved by the Secretary of Agriculture. Notice my seal below as a Professional Engineer licensed in the State of XXX.

Sincerely,  
Engineer

