



February 10, 2021

TO: Charlotte Pipe and Foundry Wholesalers and Contractors

SUBJECT: Biden Administration “Buy America” Presidential Action

Overview

Charlotte Pipe and Foundry Company certifies that it meets the provisions outlined in the Biden Administration “Buy America” Presidential Action, dated January 25, 2021, which gives preferences to American firms for federal procurement, federal grants and other forms of federal assistance.

The presidential directive applies to both “**Buy America**” and “**Buy American**” requirements, which are different programs.

Buy America applies only to the Federal Highway Administration and Federal Transit Administration, and specifically focuses on iron, steel and manufactured products. Buy America includes projects carried out under the federal highway program, in which states, not the FHWA, are the contract-awarding entity.

Buy American, on the other hand, refers to a wide range of federal funding and purchasing programs by multiple federal agencies. The program is subject to the Federal Acquisition Regulation, which governs direct federal contracting and other procurements.

President Biden’s “Buy America” directive is meant to ensure that when the federal government spends taxpayer dollars, they are spent on American-made goods or American-made component parts. The Executive Order (EO) is intended to close loopholes that allow companies to offshore production and jobs while still seeking to qualify for domestic preferences.

Charlotte Pipe and Foundry is the leading domestic supplier of cast iron and plastic pipe and fittings for plumbing. Our 119 year-old company is American-owned and all our cast iron and plastic products are proudly made in the United States. We employ more than 1,600 loyal, hard-working Americans who produce and market these products. We want to protect these precious jobs and appreciate your support of U.S.-made cast iron and plastic pipe and fittings from Charlotte Pipe and Foundry.

Executive Action

Existing Buy America rules establish a domestic content threshold – the amount of a product that must be made in the U.S. for a purchase to qualify under Buy American law. The January 25 EO updates how the government decides if a product qualifies. The EO also increases both the threshold and the price preferences for domestic goods – the difference in price over which the government can buy a product from a non-US supplier.

The final rule increases the percentage of domestic content that an end-product (other than iron or steel) must contain in order to qualify as a “domestic end-product.” Under long-standing rules for implementing the Buy American Act, an end product qualified as domestic if 50% of the cost of



components were of U.S. origin. Consistent with the Executive Order, the new rule increases the requirement of U.S.-origin components (by cost) from 50% to 55%. For Charlotte Pipe products, 100% of the cost of components are of U.S. origin.

The EO also imposes a separate, higher domestic content requirement for iron or steel products. In particular, domestic iron and steel end-products may contain no more than 5% foreign iron or steel. This increased domestic content requirement applies to any end-product that consists “predominantly” of iron or steel (i.e., iron or steel accounts for 50% or more of the total cost of the product). Charlotte Pipe and Foundry products contain no foreign iron or steel.

Finally, the executive action increases the price preference enjoyed by producers of domestic end-products under the Buy American Act. Prior to the issuance of the EO, domestic manufacturers received a preference of 6% (12% if the domestic product is made by a small business) compared to offerors of foreign end-products in civilian procurements. The final rule increases the price preference for domestic suppliers to 20% for other-than-small businesses and 30% for small businesses.

Waivers and Exceptions

The EO also updates and centralizes the Made in America Waiver Process. Before an agency issues a waiver in the public interest, the granting agency shall provide a description of its proposed waiver and a detailed justification for the use of goods, products or materials that have not been mined, produced or manufactured in the United States. Also, prior to proposing any amendment to the list of domestically non-available products, the Office of Management and Budget must review the amendment with the Secretary of Commerce to evaluate the economic basis of the underlying non-availability determination.

In addition, before granting a waiver, the relevant agency shall assess whether a significant portion of the cost advantage of a foreign-sourced product (if it exceeds 20%) is the result of the use of dumped steel, iron or manufactured goods or the use of injuriously-subsidized steel, iron or manufactured goods. The granting agency may consult with the International Trade Administration in making this assessment.

With specific reference to cast iron DWV systems, in March of 2019, The International Trade Commission (ITC) voted unanimously in favor of Charlotte Pipe and Foundry and the Cast Iron Soil Pipe Institute (CISPI) in their antidumping duty (AD) and countervailing duty (CVD) petition against imports of cast iron soil pipe from the People’s Republic of China. Charlotte Pipe and CISPI filed the initial AD/CVD case with the ITC on January 26, 2018.

As part of the investigation, the U.S. Department of Commerce determined that Chinese exporters had undersold and subsidized cast iron soil pipe in the United States in a range of 250.6 to 345.2 percent less than fair value. The AD/CVD penalties to counteract these unfair trade practices have been in effect since March, 2019 and therefore any proposed waivers are subject to further investigation as to whether the cost advantage of foreign-sourced cast iron soil pipe products are due to these proven, unfair trade practices.

In addition to the pipe case, Charlotte Pipe and CISPI filed a similar AD/CVD case against Chinese producers of cast iron fittings in 2017. In that investigation, the U.S. Department of Commerce determined that Chinese exporters had undersold and subsidized cast iron fittings in the United States in a range of 40.8 to 494.2 percent less than fair value. The AD/CVD duties to counteract these unfair trade



practices have been in effect since August of 2018. Similar to cast iron soil pipe, further investigation as to whether the cost advantage of foreign-sourced cast iron fittings are due to these unfair trade practices would be warranted.

Customers should also be wary of foreign-sourced cast iron that is being transshipped through other countries for the sole purpose of evading U.S. AD/CVD duties. For example, on February 8, 2021, U.S. Customs and Border Protection (CBP) made final determinations that Blue Star Casting of Glendale, California and Lino International Inc. of Flushing, New York had been evading U.S. antidumping and countervailing orders on cast iron soil pipe and fittings from China by claiming that their products had been produced in Cambodia. CBP further found that Lino was an active agent in the evasion and had been misleading its customers regarding the origin of imported products. CBP also discovered that Lino set up an additional shell corporation in New York in an attempt to hide from CBP further imports that were being illegally transshipped. Buyers can avoid using illegally-imported cast iron by purchasing domestic DWV systems from Charlotte Pipe and Foundry distributors.

Finally, importers of cast iron products have made broad claims that these foreign manufactured goods are exempted from Buy American provisions. They sometimes offer to “certify” that their products comply with various exceptions to the Buy American mandate. Contrary to these claims, competing products manufactured in China are subject to Buy American provisions unless the government waives the provision based upon authorized grounds and publishes a written justification in the Federal Register within two weeks of making that determination.

Increased Transparency

Interested parties are encouraged to consult the General Services Administration website, which includes information on all proposed Buy American waivers and whether those waivers have been granted. The website also provides publicly available contact information for each waiver-granting agency.

We urge you to exercise caution in assessing the claims of importers or foreign manufacturers about whether their products are eligible for use in projects subject to Buy American provisions. In the meantime, our associates stand ready to supply you with high quality products that are manufactured in the United States and that fully comply with all federal procurement guidelines. We have the expertise, the capacity, the breadth of offering and the desire to meet your needs in every respect. Please contact us if we can assist you in any way.

Thank you for your business.

CHARLOTTE PIPE AND FOUNDRY COMPANY