



U.S. Department
of Transportation

**Federal Highway
Administration**

ARIZONA DIVISION

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May 29, 2012

In Reply Refer To:

HPM-AZ

File: Gila County Fairgrounds Entrance
and Gateway Enhancement Project

TEA-GGI-0(200) B, TRACS # 000 GILGGI SL604 01C

Mr. Dallas Hammit, Deputy State Engineer
Arizona Department of Transportation
206 South 17th Avenue, MD 102A
Phoenix, Arizona 85007-3213

Dear Mr. Hammit:

In August 2011, Federal Highway Administration (FHWA) and Arizona Department of Transportation (ADOT) performed a joint Self-administration Program review. The Gila County (County) Fairgrounds Entrance and Gateway Enhancement Project was randomly selected for review. The County obtained concurrence to self-administer the above-mentioned project from ADOT and FHWA in May 2006. The scope of work for this landscaping and scenic beautification transportation enhancement project consisted of constructing an extension to the fairground entrance, constructing a steel archway at the entrance, and stripping bike lanes. The project was awarded to Spire Engineering LLC, in June 2008 for \$523,100.

During the review, the team identified that project files were missing material source documentation for steel products incorporated into the project, specifically the Buy America Certifications. Buy America Provisions (23 CFR 635.410) requires all iron and steel products that are permanently incorporated into a federal-aid highway project must be produced and manufactured in the United States. FHWA requested ADOT to obtain copies of Certificates of Compliance for the steel from the County at the August 2011 meeting and again in March 2012.

County representatives stated an inability to provide the requested information; and provided an explanation that they were unaware of their responsibility to adhere to federal guidelines, because the project was off the state highway system. The County was under the assumption that project could be administered under the same premise as the Highway User Revenue Fund (HURF) Program.

The project executed contract recognized the 2008 ADOT Standard Specifications for Road and Bridge Construction as a source in which the contractor was to adhere to. In accordance with the 2008 ADOT Standard Specifications for Road and Bridge Construction, Section 106.15, the contractor shall furnish the Engineer with Certificates of Compliance, conforming to the

requirements of Subsection 106.05 which state that steel products utilized on the project meet the requirements specified. The Certificates of Compliance shall also certify that all manufacturing processes to produce steel products, and any application of a coating to iron or steel, occurred in the United States. In addition, the County's executed contract for the project included County Specification 60-03, Certification of Compliance, which states that each lot of such material or assemblies delivered to the work must be accompanied by a Certificate of Compliance with the lot clearly identified. Neither of these specifications was adhered to by the contractor, as was required and agreed under the executed contract.

Buy America Provision cannot be waived unless approved by the United States Secretary of Transportation prior to incorporation into the project. Such waivers are very rare and are always supported by very compelling justifications.

In the absence of the required Buy America Certifications, the FHWA Arizona Division has no choice but to determine the cost of the two items using substantial amounts of steel, the steel archway and fencing, are not eligible for Federal-aid participation or reimbursement.

FHWA is requesting that ADOT request the appropriate information from the County for the two items identified above. If the documentation cannot be provided for each of the items to FHWA by June 11, 2012, then the items will be considered non-participating and will not be eligible for federal participation. The combined total cost for both items is \$59,910, as identified in the executed contract bid summary.

If you have any questions or need further information, contact Ms. Kimberly Utley via email at Kimberly.Utley@dot.gov or phone at 602.38975.

Sincerely yours,

KENNETH H. DAVIS

Karla S. Petty
Division Administrator

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