

## **Part I Chapter 45 Steel Products Procurement Act**

- A. Requirement.** The *Steel Products Procurement Act* requires purchasing agencies to include the required contract provision in every contract for the construction, alteration, repair, improvement, or maintenance of public works.
- B. Public Works.** "Public Works" includes not only structures, buildings, highways, waterways, streets, bridges, transit systems, airports, or other betterment (whether for governmental or proprietary use), but also "any railway, street railway, subway, elevated and monorail passenger or passenger and rail rolling stock, self-propelled cars, gallery cars, locomotives, passenger buses, wires, poles, and equipment for electrification of a transit system, rails, tracks, roadbeds, guideways, elevated structures, buildings, stations, terminals, docks, shelters, and repairs to any of the foregoing."
- C. Contract Provision.** If any steel products are to be used or supplied in the performance of the contract, only "steel products," as defined in the Act can be used or supplied in the performance of the contract or any subcontract.
- D. Steel Products.**
- 1. Definition.** Products rolled, formed, shaped, drawn, extruded, forged, cast, fabricated, or otherwise similarly processed, or processed by a combination of two or more of such operations, from steel made in the United States by the open hearth, basic oxygen, electric furnace, Bessemer, or other steel making process.
    - a.** Includes cast iron products.
    - b.** Includes machinery and equipment listed in United States Department of Commerce Standard Industrial Classification 25 (furniture and fixture), 35 (machinery; except electrical), and 37 (transportation equipment) and made of, fabricated from, or containing steel components.
    - c.** Does not include steel products which will not be incorporated into the project (i.e., tools - hammers/wrenches); scaffolding used to construct the project and removed after completion; and trailers used as offices by contractors and removed after completion of the project.
    - d.** Transportation equipment shall be determined to be a United States steel product only if it complies with *Section 165 of Public Law, §§ 97-424 (96 Stat. 2136)*.
    - e.** System vs. Product. Each "product" in the system is identified as a separate and distinct steel product.
  - 2. Origin of Steel.**

- a. If the product contains 100 percent U.S. manufactured steel, it is a "steel product" under the Act, no matter where the nonsteel components of the product are manufactured.
- b. If the product contains 100 percent steel manufactured in a foreign country, its acquisition is prohibited.
- c. If the product contains both foreign and United States manufactured steel (no matter how little or how much of each), the product shall be determined to be a United States steel product if at least 75 percent of the total cost of the articles, materials, and supplies have been mined, produced, or manufactured in the United States.

**3. Certification Requirements.**

- a. **Unidentified Steel Products.** The contractor must provide documentation including, but not limited to: invoices, bills of lading, and mill certification.
- b. **Identifiable Source.** If 100 percent of the steel product is identifiable (i.e., stamped U.S. steel), then the contractor only needs to submit certification which satisfies the purchasing agency.

**E. Enforcement.**

1. **Withholding Payments.** No payments are to be made by the purchasing agency until the documentation or certification has been provided.
2. **Recovery of Payments.** If payments have been made but should not have been made because of noncompliance, the public agency or the Attorney General may recover the payments directly from the contractor, subcontractor, or manufacturer who did not comply.
3. **Debarment.** Any person who willfully violates the Act shall be prohibited from submitting bids or performing work for five years. The person is entitled to due process under *2 Pa. C.S.A.* before a debarment determination is made.

**F. Waiver.**

1. *The Steel Products Procurement Act* requirement may be waived by the head of the purchasing agency in writing.
2. Waiver can only occur when the purchasing agency head determines that steel products are not produced in the United States in sufficient quantities to meet the requirements of the contract.