# South Carolina Guidelines & Procedures for State Funded Projects
# United States Produced Iron and Steel (American Iron and Steel)
# SC Code Ann. § 11-35-5350

*A copy of the Act is found in **Appendix A**.*

*Nothing in these Guidelines & Procedures supersedes requirements for compliance with federal procedures for public works projects subject to the requirements of the Safe Drinking Water Act 42 U.S.C. 300j-12(a)(4).*

## Project Coverage

**1. Q: What projects fall under SC Code Ann. § 11-35-5350 (AIS)?**

A: All public works projects that are submitted to the Authority Having Jurisdiction/Building Code Official (AHJ) after June 30, 2026 and are paid for with any state-appropriated funds or state funds administered by a public entity which consists of the construction, maintenance, renovation, remodeling, or improvement of a building, road, street, sewer, storm drain, water system, site development, irrigation system, reclamation project, gas or electrical distribution system, gas or electrical substation, or other facility, project, or portion owned in whole or in part by any public entity.

A "Public works project" is subject to the requirements of this section and notwithstanding the provisions of Section 11-35-710(A)(1) to the contrary, means an activity paid for with any state-appropriated funds or state funds administered by a public entity which consists of the construction, maintenance, renovation, remodeling, or improvement of a building, road, street, sewer, storm drain, water system, site development, irrigation system, reclamation project, gas or electrical distribution system, gas or electrical substation, or other facility, project, or portion owned in whole or in part by any public entity.

**2. Q: Are emergency procurements subject to the American Iron and Steel (AIS requirements)?**

A: No. Repairs undertaken in response to an emergent situation affecting public health, safety, or property are excluded.

**3. Q: What projects are excluded from the AIS requirements?**

A: Public works projects that were submitted to the AHJ prior to June 30, 2026, are not subject to the AIS requirements.

**4. Q: What if a project has multiple sources of funding?**

A: Public works projects paid in whole or in part with state-appropriated funds or state funds administered by a public entity are subject to AIS.

**5. Q: Are there any exceptions to the AIS requirements?**

A: Yes. The use of iron and steel products produced in the United States is not required if:

1) They are not produced in sufficient quantities, reasonably available, or of satisfactory quality.

2) They will increase the total cost of the project by more than twenty-five percent.

3) The use of such products is inconsistent with the public interest.

4) The iron and steel materials are (a) incidental or ancillary to the primary product and are not separately identified in the project specifications, and (b) the cost of such materials does not exceed one-tenth of one percent of the project's total steel and iron costs or two thousand five hundred dollars, whichever is greater (for purposes of this subitem, the cost of such materials is shown to be the value of the iron or steel products as they are delivered to the project).

5) The materials consist of components comprising five percent or less of the materials cost of an otherwise United States produced steel or iron product.

6) The iron and steel materials are part of electrical components, equipment, systems, and appurtenances, including supports, covers, shielding, and other appurtenances related to an electrical system, necessary for operation or concealment, except transmission and distribution poles.

7) The iron and steel materials are provided through contracts procured by the Department of Transportation subject to the Buy America requirements of 23 C.F.R. 635.410, which are exempted from the Act.

**6. Q: Who determines if any exception(s) apply?**

A: The Act provides that the head of the public procurement unit of the public entity administering the funds for a public works project or the purchase of materials for a public works project solely determines exceptions. The funds at issue are state funds, so the head of the public procurement unit for the state entity that is administering the state funds shall determine whether an exception applies. (For example, if the Rural Infrastructure Authority (RIA) is providing grant funding to a local water system, RIA shall determine whether an exception applies.) The determination and supporting documentation must be retained in an official contract file. The determination must be documented in sufficient detail to satisfy the requirements of an audit.

**7. Q: What public entities are subject to the AIS requirements?**

A: "Public entity" means the State, or any political subdivision of the State, including a school district or agency, department, institution, or other public entity of them.

**8. Q: Are construction products procured through a change order subject to the AIS requirements?**

A: Change orders for projects submitted to the AHJ after June 30, 2026, are subject to AIS requirements, while change orders for projects that were submitted to the AHJ prior to June 30, 2026, are not.

## Product Questions

**1. Q: What products are required to be made in the US?**

A: Any product composed primarily of greater than fifty percent iron or steel measured by component cost, volume, or weight including, but not limited to, lined or unlined pipes and fittings; bars and rods; wire, wire ropes, and link chains; forgings; grating and drainage products; access covers, hatches, manhole covers, and other castings; hydrants; electric transmission and distribution poles; tanks; flanges; pipe clamps and restraints; valves; structural steel and other steel mill products; materials made primarily of iron and steel within precast concrete; and other construction materials made primarily of iron or steel.

Construction materials are those articles, materials, or supplies made primarily of iron and steel, that are permanently incorporated into the project. This includes, but is not limited to the following products: wire rod, bar, angles, concrete reinforcing bar, wire, wire cloth, wire rope and cables, tubing, framing, joists, trusses, fasteners (i.e., nuts and bolts), welding rods, decking, grating, railings, stairs, access ramps, fire escapes, ladders, wall panels, dome structures, roofing, ductwork, surface drains, cable hanging systems, manhole steps, fencing and fence tubing, guardrails, doors, and stationary screens.

However, mechanical, and electrical, elevator, and escalator equipment are not considered construction materials. Mechanical equipment is typically that which has motorized parts and/or is powered by a motor. Electrical equipment is typically any machine powered by electricity and includes components that are part of the electrical distribution system. Permanent supports for mechanical equipment are construction materials.

The following examples (including their appurtenances necessary for their intended use and operation) are NOT considered construction materials: lighting fixtures, electrical conduit, emergency life systems, HVAC (excluding ductwork), water heaters, heat exchangers, elevators, escalators, pumps, motors, gear reducers, drives (including

variable frequency drives (VFDs)), electric/pneumatic/manual accessories used to operate valves, mixers, gates, motorized screens (such as traveling screens), blowers/aeration equipment, compressors, meters, sensors, controls and switches, supervisory control and data acquisition (SCADA), membrane bioreactor systems, membrane filtration systems, filters, clarifiers and clarifier mechanisms, rakes, grinders, disinfection systems, presses (including belt presses), conveyors, cranes, generators, cabinetry and housings (such as electrical boxes/enclosures), metal office furniture, shelving, laboratory equipment, analytical instrumentation, and dewatering equipment.

**2. Q: What is the definition of "produced in the United States"?**

A: "Produced in the United States" means that, with respect to iron and steel, all manufacturing processes, from initial melting through application of coatings, occur in the United States, other than metallurgical processes to refine steel additives.

"Manufacturing process" means the application of a process to alter the form or function of materials or elements of a product in a manner that adds value and transforms the materials or elements into a new finished product functionally different from a finished product produced merely from assembling materials or elements into a product without applying such a process.

**3. Q: If iron or steel is recycled or manufactured from raw materials, will certification be required for the recycled or raw materials?**

A: No. Recycled or raw source materials used in the production of iron and steel products do not have to come from the United States produced iron or steel scrap and are considered raw materials that may come from anywhere. While certification is not required for the raw material, the additional final processing of iron and steel must be certified to have occurred in the United States.

**4. Q: Must temporary construction products such as shoring, scaffolding, formwork, equipment, etc. be manufactured in the United States?**

A: No. Only products permanently incorporated into the project must be produced in the United States. Products which are removed from the project site upon completion of the project, are not required to be made of United States iron or Steel.

**5. Q: What is the definition of "steel"?**

A: Steel means an alloy that includes at least 50 percent iron, between .02 and 2 percent carbon and may include other elements. Metallic elements such as chromium, nickel, molybdenum, manganese, and silicon may be added during the melting of steel for the purpose of enhancing properties such as corrosion resistance, hardness, or strength. The definition of steel covers carbon steel, alloy steel, stainless steel, tool steel and other specialty steels.

**6. Q: If the iron or steel is produced in the United States, may other steps in the manufacturing process take place outside of the United States, such as assembly?**

A: No. Production in the United States of iron or steel in a listed product requires that all manufacturing processes must take place in the United States, except metallurgical processes involving refinement of steel additives.

**7. Q: What processes must occur in the United States to be compliant with the AIS requirements for reinforced precast concrete?**

A: While reinforced precast concrete may not be at least 50% iron or steel, in this particular case, the reinforcing bar and wire must be produced in the United States and meet the same standards as for any other iron or steel product. The cement and other raw materials used in concrete production are not required to be of domestic origin.

If the reinforced concrete is cast at the construction site, the reinforcing bar and wire are considered to be a construction material and must be produced in the United States.

**8. Q: What constitutes "satisfactory quality" as defined in the AIS statute, in reference to the exceptions?**

A: "Satisfactory quality" means the product meets the design specifications. An exception could be considered if the head of the public procurement unit determines that the project plans and design would be compromised because there are no United States produced products available that meet the project design specifications.

## Compliance

**1. Q: Who provides compliance documentation and who determines compliance?**

A: In order to ensure compliance with the AIS requirements, specific AIS contract language must be included in each contract. See Appendix C.

The use of a manufacturer certification process must be implemented. The manufacturer certification is to ensure that producers adhere to the AIS requirement and assistance recipients can verify that products comply with the AIS requirement. The process also establishes accountability and better enables the State to take enforcement actions against violators. The manufacturer provides a certification letter that includes the location of the manufacturing facility where the product or process took place (not its headquarters), a description of the product or item being delivered, and a signature by a manufacturer's responsible party. Attached, as Appendix B, are sample certifications. These certifications should be collected from the prime contractor and maintained by the owner. The prime contractor has the contractual responsibility to provide any and all documentation to establish certification that AIS requirements are met upon request.

2. **Q: What happens if non-compliant iron or steel has been permanently incorporated into a project?**

   A: If a potentially non-compliant product is identified, the contractor is given the opportunity to propose a solution and correct the matter. The owner may take whatever remedies are available under the contract and at law.

3. **Q: Can the contractor rely on markings that read "Made in the USA" as evidence that all processes took place in the United States.**

   A: No. This designation is not consistent with AIS requirements that all manufacturing processes of iron and steel products must take place in the United States.

4. **Q: When determining what constitutes a product made "primarily" of iron or steel, who makes this determination?**

   A: The manufacturer will show if its product qualifies as primarily made of iron or steel. The contractor should expect the manufacturer to provide documentation/certification that its product is AIS compliant.

**5.** **Q: How can public entities assist contractors to be compliant with the AIS requirements?**

   A: In order to ensure compliance with the AIS requirements, specific AIS language must be included in the procurement contracts. See Appendix C for recommended contract language.

   It is further recommended that AIS language be included in project specifications.

**6.** **Q: How should state agencies providing state appropriated grant funding to public entities ensure grant recipients are compliant with the AIS requirements?**

   A: To ensure compliance with the AIS requirements, the state agency should require the grantee to acknowledge the applicability of the requirement and certify compliance. The state agency may accomplish this requirement by including appropriate language in any grant agreement and requiring the grantee to certify to best of its knowledge that the project is compliant at the end of the project. See Appendix D for sample language and certification form.

Submit other questions to:

State Fiscal Accountability Authority
Office of State Engineer
AIS@mmo.sc.gov