

§ 661.17 Failure to comply with certification.

If a successful bidder or offeror fails to demonstrate that it is in compliance with its certification, it will be required to take the necessary steps in order to achieve compliance. If a bidder or offeror takes these necessary steps, it will not be allowed to change its original bid price or the price of its final offer. If a bidder or offeror does not take the necessary steps, it will not be awarded the contract if the contract has not yet been awarded, and it is in breach of contract if a contract has been awarded.

[71 FR 14118, Mar. 21, 2006]

§ 661.18 Intentional violations.

A person shall be ineligible to receive any contract or subcontract made with funds authorized under the Federal Public Transportation Act of 2005 pursuant to part 29 of this title if it has been determined by a court or Federal agency that the person intentionally—

(a) Affixed a label bearing a “Made in America” inscription, or an inscription with the same meaning, to a product not made in the United States, but sold in or shipped to the United States and used in projects to which this section applies, or

(b) Otherwise represented that any such product was produced in the United States.

[61 FR 6303, Feb. 16, 1996, as amended at 72 FR 53698, Sept. 20, 2007]

§ 661.19 Sanctions.

A willful refusal to comply with a certification by a successful bidder or offeror may lead to the initiation of debarment or suspension proceedings under part 29 of this title.

[71 FR 14118, Mar. 21, 2006]

§ 661.20 Rights of parties.

(a) A party adversely affected by an FTA action under this subsection shall have the right to seek review under the Administrative Procedure Act (APA), 5 U.S.C. 702 *et seq.*

(b) Except as provided in paragraph (a) of this section, the sole right of any third party under the Buy America provision is to petition FTA under the

provisions of § 661.15 of this part. No third party has any additional right, at law or equity, for any remedy including, but not limited to, injunctions, damages, or cancellation of the Federal grant or contracts of the grantee.

[71 FR 14118, Mar. 21, 2006]

§ 661.21 State Buy America provisions.

(a) Except as provided in paragraph (b) of this section, any State may impose more stringent Buy America or buy national requirements than contained in section 165 of the Act and the regulations in this part.

(b) FTA will not participate in contracts governed by the following:

(1) State Buy America or Buy National preference provisions which are not as strict as the Federal requirements.

(2) State and local Buy National or Buy America preference provisions which are not explicitly set out under State law. For example, administrative interpretations of non-specific State legislation will not control.

(3) State and local Buy Local preference provisions.

PART 663—PRE-AWARD AND POST-DELIVERY AUDITS OF ROLLING STOCK PURCHASES

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