

§ 661.5 General requirements.

(a) Except as provided in § 661.7 and § 661.11 of this part, no funds may be obligated by FTA for a grantee project unless all iron, steel, and manufactured products used in the project are produced in the United States.

(b) All steel and iron manufacturing processes must take place in the United States, except metallurgical processes involving refinement of steel additives.

(c) The steel and iron requirements apply to all construction materials made primarily of steel or iron and used in infrastructure projects such as transit or maintenance facilities, rail lines, and bridges. These items include, but are not limited to, structural steel or iron, steel or iron beams and columns, running rail and contact rail. These requirements do not apply to steel or iron used as components or subcomponents of other manufactured products or rolling stock, or to bimetallic power rail incorporating steel or iron components.

(d) For a manufactured product to be considered produced in the United States:

(1) All of the manufacturing processes for the product must take place in the United States; and

(2) All of the components of the product must be of U.S. origin. A component is considered of U.S. origin if it is manufactured in the United States, regardless of the origin of its subcomponents.

[61 FR 6302, Feb. 16, 1996, as amended at 74 FR 30239, June 25, 2009]

§ 661.6 Certification requirements for procurement of steel or manufactured products.

If steel, iron, or manufactured products (as defined in §§ 661.3 and 661.5 of this part) are being procured, the appropriate certificate as set forth below shall be completed and submitted by each bidder or offeror in accordance with the requirement contained in § 661.13(b) of this part.

Certificate of Compliance with Buy America Requirements

The bidder or offeror hereby certifies that it will comply with the require-

ments of 49 U.S.C. 5323(j)(1), and the applicable regulations in 49 CFR part 661.

Date \_\_\_\_\_
Signature \_\_\_\_\_
Company \_\_\_\_\_
Name \_\_\_\_\_
Title \_\_\_\_\_

Certificate of Non-Compliance with Buy America Requirements

The bidder or offeror hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j), but it may qualify for an exception to the requirement pursuant to 49 U.S.C. 5323(j)(2), as amended, and the applicable regulations in 49 CFR 661.7.

Date \_\_\_\_\_
Signature \_\_\_\_\_
Company \_\_\_\_\_
Name \_\_\_\_\_
Title \_\_\_\_\_

[71 FR 14117, Mar. 21, 2006, as amended at 72 FR 53696, Sept. 20, 2007]

§ 661.7 Waivers.

(a) Section 5323(j)(2) of Title 49 United States Code provides that the general requirements of 49 U.S.C. 5323(j)(1) shall not apply in four specific instances. This section sets out the conditions for the three statutory waivers based on public interest, non-availability, and price-differential. Section 661.11 of this part sets out the conditions for the fourth statutory waiver governing the procurement of rolling stock and associated equipment.

(b) Under the provision of 49 U.S.C. 5323(j)(2)(A), the Administrator may waive the general requirements of 49 U.S.C. 5323(j)(1) if the Administrator finds that their application would be inconsistent with the public interest. In determining whether the conditions exist to grant this public interest waiver, the Administrator will consider all appropriate factors on a case-by-case basis, unless a general exception is specifically set out in this part. When granting a public interest waiver, the Administrator shall issue a detailed written statement justifying why the waiver is in the public interest. The Administrator shall publish this justification in the FEDERAL REGISTER, providing the public with a reasonable