DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Buy America Waiver Notification

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice.

SUMMARY: This notice provides information regarding the FHWA’s finding that a partial Buy America waiver is appropriate for the obligation of Federal-aid funds for 112 State requests regarding specific vehicle projects (including sedans, vans, pickups, SUVs, trucks, buses, and equipment, such as backhoes, street sweepers, tractors and low emission locomotives), including projects to retrofit vehicles with individual vehicle components, so long as they are assembled in the United States. The FHWA’s Buy America requirements provide that 100 percent of all steel and iron comprising a predominantly steel or iron product that is permanently incorporated in a Federal-aid project must be domestically manufactured. With respect to vehicles, manufacturers typically assemble these products with many different components and subcomponents containing steel and iron. As a result, vehicles are typically referred to as being made where the final product rolls off the assembly line for delivery into the marketplace. The FHWA is unaware of any vehicle that is comprised of 100 percent domestically produced steel and iron, resulting in a need for a partial Buy America waiver for these projects to proceed.

DATES: The effective date of the waiver is December 31, 2013.

FOR FURTHER INFORMATION CONTACT: For questions about this notice, please contact Mr. Gerald Yakovenko, FHWA Office of Program Administration, (202) 366–1562, or via email at gerald.yakovenko@dot.gov. For legal questions, please contact Mr. Michael Harkins, FHWA Office of the Chief Counsel, (202) 366–4928, or via email at michael.harkins@dot.gov. Office hours for the FHWA are from 8:00 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access


Background

The FHWA’s Buy America requirements at 23 U.S.C. 313 require a domestic manufacturing process for any steel or iron products (including protective coatings) that are permanently incorporated in a Federal-aid project. The statute also provides for a waiver of the Buy America requirements when the application would be inconsistent with the public interest or when satisfactory quality domestic steel and iron products are not sufficiently available. This notice provides information regarding the FHWA’s finding that a partial Buy America waiver is appropriate for the obligation of Federal-aid funds for the purchase of 112 State requests regarding specific vehicle projects (including sedans, vans, pickups, SUVs, trucks, buses, and equipment, such as backhoes, street sweepers, and tractors and low emission locomotives). In accordance with Division A, section 122 of the “Consolidated and Further Continuing Appropriations Act, 2012” (Pub. L. 112–284), the FHWA published a notice of intent to issue a waiver on its Web site for 112 State requests regarding specific vehicle projects (including sedans, vans, pickups, SUVs, trucks, buses, and equipment, such as backhoes, street sweepers, and tractors) on November 15th. The FHWA received 20 comments in response to the publication. No commenter objected to the waiver, and one commenter expressed concern regarding FHWA’s current process of approving a waiver for vehicle retrofit projects under the Congestion Mitigation Air Quality (CMAQ) Improvement Program. This commenter suggested that FHWA should make all diesel retrofit devices and components exempt from the Buy America requirements.

The FHWA appreciates the need to provide clear guidance concerning the application of Buy America requirements to vehicles and diesel engine retrofit projects; however, the issuance of guidance for that subject is outside of the scope of this Notice. The FHWA issued a Federal Register Notice and Request for Comment on various aspects of the Buy America requirements on July 10, 2013. The FHWA is currently evaluating all comments and assessing the need for additional guidance or clarification.

Based on all the information available to the agency, the FHWA concludes that