DEPARTMENT OF TRANSPORTATION
Federal Highway Administration
Buy America Waiver Notification

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice.

SUMMARY: This notice provides information regarding FHWA’s finding that a Buy America waiver is appropriate for the use of non-domestic steel components of Airport Transit System (ATS) vehicles, ATS guideway switches, and ATS rails to be incorporated into the Chicago O’Hare International Airport Expansion & Modernization Project.

DATES: The effective date of the waiver is December 5, 2016.

FOR FURTHER INFORMATION CONTACT: For questions about this notice, please contact Mr. Gerald Yakowenko, FHWA Office of Program Administration, (202) 366–1562, or via email at gerald.yakowenko@dot.gov. For legal questions, please contact Mr. William Winne, FHWA Office of the Chief Counsel, 202–366–1397, or via email at William.Winne@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 policy in 23 CFR 635.410 requires a domestic manufacturing process for any steel or iron products (including protective coatings) that are permanently incorporated in a Federal-aid construction project. The regulation 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 FHWA’s finding that a Buy America waiver is appropriate for use of non-domestic steel components of ATS vehicles, ATS guideway switches, and ATS rails to be incorporated into the Chicago O’Hare International Airport ATS Expansion & Modernization Project.

In accordance with Division K, section 122 of the “Consolidated and Further Continuing Appropriations Act, 2015” (Pub. L. 113–235), FHWA published a notice of intent to issue a waiver on its Web site; http://www.fhwa.dot.gov/construction/contracts/waivers.cfm?id=125 on April 26th. The FHWA received two comments in response to the publication. Frank Johnson opposed granting a waiver and suggested that all products should be made in the United States. Brian Abbott of Voestalpine Norttrak claimed that Nortrack has the capability of manufacturing guideway switches domestically. The City of Chicago consulted with Nortrack and explored the possibility for domestic procurement of guideway switches. The City of Chicago determined that the guideway switches manufactured by Voestalpine Norttrak were not compatible with Chicago O’Hare Airport Transit System ATS. Chicago’s June 28th response indicates that they coordinated with Voestalpine Norttrak regarding compatibility issues and provided a reasonable explanation of why a waiver is appropriate considering their project circumstances. Based on all the information available to the agency, FHWA concludes that there are no domestic manufacturers of ATS vehicles, ATS guideway switches, and ATS rails for the Chicago O’Hare International Airport ATS Expansion & Modernization Project.

In accordance with the provisions of section 117 of the SAFETEA–LU Technical Corrections Act of 2008 (Pub. L. 110–244, 122 Stat. 1572), FHWA is providing this notice as its finding that a Buy America waiver is appropriate. The FHWA invites public comment on this finding for an additional 15 days following the effective date of the finding. Comments may be submitted to FHWA’s Web site via the link provided to the waiver page noted above.