

procurement of a Horizontal Lifeline Fall Protection Maintenance Tie Back System (System), the Federal Transit Administration (FTA) hereby waives its Buy America requirements, finding that the materials for which the waiver is requested are not produced in the United States in sufficient and reasonably available quantities and of satisfactory quality. This waiver is limited to a single procurement by IPTC for the System.

DATES: This waiver is effective immediately.

FOR FURTHER INFORMATION CONTACT: Laura Ames, FTA Attorney-Advisor, at (202) 366-2743 or Laura.Ames@dot.gov.

SUPPLEMENTARY INFORMATION: The purpose of this notice is to announce that FTA has granted a Buy America non-availability waiver for IPTC for the procurement of a Horizontal Lifeline Fall Protection Maintenance Tie Back System under 49 U.S.C. 5323(j)(2)(B) and 49 CFR 661.7(c).

With certain exceptions, FTA's Buy America requirements prevent FTA from obligating an amount that may be appropriated to carry out its program for a project unless "the steel, iron, and manufactured goods used in the project are produced in the United States." 49 U.S.C. 5323(j)(1). A manufactured product is considered produced in the United States if: (1) All of the manufacturing processes for the product take place in the United States; and (2) all of the components of the product are 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. 49 CFR 661.5(d). If, however, FTA determines that "the steel, iron, and goods produced in the United States are not produced in a sufficient and reasonably available amount or are not of a satisfactory quality," then FTA may issue a non-availability waiver. 49 U.S.C. 5323(j)(2)(B); 49 CFR 661.7(c). "It will be presumed that the conditions exist to grant this non-availability waiver if no responsive and responsible bid is received offering an item produced in the United States." 49 CFR 661.7(c)(1).

IPTC is constructing a Downtown Transit Center (DTC) in Indianapolis, Indiana, that will serve as the hub for public transit. It will include a large indoor public waiting area and bus bays while serving pedestrians, cyclists, and bus riders. Per Occupational Safety and Health Administration (OSHA) regulations, IPTC is required to provide fall protection for employees performing maintenance on the new building. IPTC entered into a contract with Weddle

Bros. Building Group (WBBG) in early September 2014 for the construction of the DTC. WBBG certified in good faith that it would comply with Buy America. As part of the project, IPTC issued an RFP for the complete design, supply, and installation of a fall protection maintenance tie-back system to safeguard personnel to include all cable, intermediate brackets, end terminations, and modifications of structural steel as required for supplementary support of stanchions, user equipment, and attachment to roof structure for a complete and working fall protection maintenance tie-back system.

Two firms, American Anchor and Pro-Bel Group, responded to the RFP, but did not certify compliance with the Buy America regulations. The cables and tensioning system are not manufactured domestically for Pro-Bel. The hands-free set ups are not manufactured domestically for American Anchor. IPTC submitted a waiver request based on non-availability under 49 CFR 661.7(c). FTA also conducted a scouting search for the fall arrest system through its Interagency Agreement with the U.S. Department of Commerce's National Institute of Standards and Technology (NIST). The scouting search did not identify a domestic manufacturer of a system that met IPTC's specifications.

On Tuesday March 22, 2016, and in accordance with 49 U.S.C. 5323(j)(3)(A), FTA published a notice in the **Federal Register** announcing the Buy America waiver request (81 FR 15411), seeking comment from all interested parties, including potential vendors and suppliers. The comment period closed on March 29, 2016, and no comments were received.

Therefore, based on the information supplied in support of IPTC's request for a Buy America waiver for the System, including NIST's inability to locate a domestic manufacturer that currently produces a similar system and the lack of any comments, FTA hereby waives its Buy America requirements for the Horizontal Lifeline Fall Protection Maintenance Tie Back System on the grounds that the manufactured product is not available in the U.S. This waiver is limited to a single procurement for the Horizontal Lifeline Fall Protection Maintenance Tie Back System by IPTC.

Issued on April 14, 2016.

Dana Nifosi,

Deputy Chief Counsel.

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DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[Docket No. FTA-2016-0006]

Notice of Buy America Waiver for Steel Excavator With a Continuous Weld Platform

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of Buy America waiver.

SUMMARY: In response to the request of Metro North Railroad (MNR) for a Buy America non-availability waiver for the procurement of a steel excavator with a continuous weld platform (CWP), the Federal Transit Administration (FTA) hereby waives its Buy America requirements, finding that the materials for which the waiver is requested are not produced in the United States in sufficient and reasonably available quantities and of satisfactory quality. This waiver is limited to a single procurement by MNR for the CWP.

DATES: This waiver is effective immediately.

FOR FURTHER INFORMATION CONTACT: Laura Ames, FTA Attorney-Advisor, at (202) 366-2743 or laura.ames@dot.gov.

SUPPLEMENTARY INFORMATION: The purpose of this notice is to announce that FTA has granted a Buy America non-availability waiver for MNR for the procurement of a steel excavator with a CWP, under 49 U.S.C. 5323(j)(2)(B) and 49 CFR 661.7(c).

With certain exceptions, FTA's Buy America requirements prevent FTA from obligating an amount that may be appropriated to carry out its program for a project unless "the steel, iron, and manufactured goods used in the project are produced in the United States." 49 U.S.C. 5323(j)(1). Under 49 U.S.C. 5323(j)(2)(C), rolling stock must contain more than 60 percent domestic content and final assembly must occur in the U.S. The CWP is subject to the rolling stock requirements. 49 CFR 661.3.

MNR operates commuter rail service spanning 787 track miles. MRN has a large length of track along the shore line and flooding along the line can occur regularly at many of these locations. The risk of flooding can be reduced by keeping drainage infrastructure clear of debris. Specialized equipment such as the CWP can quickly clear the right of way after storms enabling the resumption of passenger train service. After Hurricane Sandy, MNR leased a CWP, but given limited availability, as well as the higher cost of leasing, MNR believes that purchase of the CWP is necessary to ensure that it will be

available to expedite service restoration and was provided funding to purchase such equipment from FTA through the emergency relief funds allocated for Superstorm Sandy.

A CWP is a support vehicle train which consists of several platforms suitable for holding/hauling and picking up or distributing a variety of materials, such as rocks, riprap, dirt or debris. The equipment is similar to an excavator which has an articulated arm, with the main difference being that it rides on rails and sits on a connected platform where it can dump or pick up material from in order to perform its functions. The main tasks for which the MNR uses the CWP is shoreline stabilization/restoration and for removing debris from the right-of-way after storms.

MNR prepared and advertised a solicitation for the CWP on January 9, 2015. On February 5, 2015, BRRI, a Canadian firm, submitted a Certificate of Non-Compliance because the final assembly of the equipment would take place in Canada, although content of the material used would be 77% domestic origin.

MNR did extensive follow-up after receiving only one bid, including contacting seven vendors who did not submit bids and undertaking research to determine whether a CWP that met both the domestic content and the final assembly requirements of Buy America was available. One company that did not submit a bid stated that although it could meet the Buy America requirements, it was not interested in bidding on the project at this time. Accordingly, MNR requested a non-availability waiver of the Buy America requirements for final assembly pursuant to 49 U.S.C. 5323 (j)(2)(B).

On March 22, 2016, and in accordance with 49 U.S.C. 5323(j)(3)(A), FTA published a notice in the **Federal Register** announcing the MNR Buy America waiver request (81 FR 15407), seeking comment from all interested parties, including potential vendors and suppliers. The comment period closed on March 29, 2016, and no comments were received. Based on the representations from MNR and the lack of any comments, FTA is granting a non-availability waiver for final assembly only of the CWP. This waiver is limited to the final assembly requirement for a single procurement of the CWP described above by MNR.

Issued on April 14, 2016.

Dana Nifosi,

Deputy Chief Counsel.

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DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[Docket No. FTA-2016-0002]

Notice of Buy America Waiver for a Radio Communications System

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of Buy America waiver.

SUMMARY: In response to the request of the Kansas City Area Transportation Authority (KCATA) for a Buy America waiver for a DMR Tier III Trunked UHF Voice radio system that is compatible with its current system, the Federal Transit Administration (FTA) hereby waives its Buy America requirements finding that the materials for which a waiver is requested are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality. This waiver is limited to a single procurement by KCATA for the DMR Tier III Trunked UHF Voice radio system.

DATES: This waiver is effective immediately.

FOR FURTHER INFORMATION CONTACT:

Laura Ames, FTA Attorney-Advisor, at (202) 366-2743 or laura.ames@dot.gov.

SUPPLEMENTARY INFORMATION: The purpose of this notice is to announce that FTA has granted a Buy America non-availability waiver for KCATA's procurement of a DMR Tier III Trunked UHF radio system under 49 U.S.C. 5323(j)(2)(B) and 49 CFR 661.7(c).

With certain exceptions, FTA's Buy America requirements prevent FTA from obligating an amount that may be appropriated to carry out its program for a project unless "the steel, iron, and manufactured goods used in the project are produced in the United States." 49 U.S.C. 5323(j)(1). A manufactured product is considered produced in the United States if: (1) All of the manufacturing processes for the product take place in the United States; and (2) all of the components of the product are 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. 49 CFR 661.5(d). If, however, FTA determines that "the steel, iron, and goods produced in the United States are not produced in a sufficient and reasonably available amount or are not of a satisfactory quality," then FTA may issue a non-availability waiver. 49 U.S.C. 5323(j)(2)(B); 49 CFR 661.7(c).

KCATA provides public transportation services in the Kansas

City, Missouri, metropolitan area, operating in seven counties. KCATA's current radio system was purchased in 2002 and fully activated in 2005. The radio system is analog and operates on two separate channels. It has limited growth capabilities, issues with "talk over," inaccessible voice connections, and escalating maintenance costs. KCATA is in the process of upgrading its radio system.

As part of its plan to upgrade the radio system, KCATA issued a Request for Proposals (RFP) on December 16, 2014, seeking a "turnkey project that includes a DMR Tier III Trunked UHF Voice radio system, full integration of the radio system with the Trapeze TransitMaster CAD/AVL system, and extended maintenance and support." KCATA only received one response to the RFP. Tait North America (Tait) expressed interest in the project but noted that it is headquartered in New Zealand and that a majority of the products supplied for the project would be assembled in New Zealand, making them non-compliant with Buy America.

Neither KCATA nor FTA has identified any companies in the United States that can meet the Buy America requirements for this project. FTA also conducted a scouting search for a U.S. manufacturer of a comparable radio system through its Interagency Agreement with the U.S. Department of Commerce's National Institute of Standards and Technology (NIST). The scouting search did not result in identifying any domestic manufacturers who could provide the equipment required by KCATA.

On Wednesday, March 22, 2016, and in accordance with 49 U.S.C. 5323(j)(3)(A), FTA published a notice in the **Federal Register** (81 FR 15410) requesting public comment on, among other topics, the merits of KCATA's waiver request and potential effects of granting the waiver. The public comment period closed on March 29, 2016. FTA received only once comment.

Selex ES, a subsidiary of an Italian company with its North America headquarters in Overland Park, Kansas, commented that although it did not submit a proposal to KCATA's RFP, it can supply a DMR Tier III Trunked Radio Systems similar to the system proposed by Tait, arguing that Selex ES is a "local" option for KCATA. Although Selex ES markets, designs, stages, ships, and services DMR Tier III Trunked Radio Systems and is based in Kansas, Selex ES does not provide a system that is compliant with FTA's Buy America requirement for manufactured goods. As noted above, Buy America applies to manufactured