

7. March 18, 1997: Buy America Requirements of Pre-Award and Post-Delivery



U.S. Department
Of Transportation
**Federal Transit
Administration**

The Administrator

400 Seventh St. S.W.
Washington, D.C. 20590

C-97-03

March 18, 1997

Dear Colleague:

A Buy America problem and follow-up surveys of several Pre-Award and Post-Delivery Reviews of bus procurements indicates that many grantees and their contractors are not conducting adequate reviews of the Buy America requirements. The Pre-Award and Post-Delivery Reviews are designed to ensure that any vehicle purchased with Federal Transit Administration funds has at least a 60 percent domestic content and undergoes final assembly in the United States.

In general, we have found that, particularly in the case of final assembly activities, the grantees surveyed did not provide a description of the manufacturer's final assembly activities and an evaluation of whether Buy America requirements were met. When a grantee receives information from a manufacturer, it must review this information to determine whether it is sufficient to determine if the manufacturer has met the Buy America requirements. If the information is insufficient, the grantee must take whatever steps are necessary to satisfy itself that the manufacturer is complying with the Buy America requirements. This will usually involve seeking additional information from the manufacturer. Otherwise, the grantee certifies compliance with Buy America at its own risk.

In order to assist you in conducting reviews in accordance with the Pre-Award and Post-Delivery Review Regulation, 49 CFR Part 663, I have outlined in the enclosure the procedures a grantee must use to ensure that any vehicles it purchases comply with Buy America. If you have any questions regarding Buy America compliance, please contact your Regional Office.

Sincerely,

A handwritten signature in cursive script that reads "Gordon J. Linton".

Gordon J. Linton

Enclosure

**FEDERAL TRANSIT ADMINISTRATION
GUIDANCE ON BUY AMERICA REQUIREMENTS OF THE PRE-AWARD AND
POST-DELIVERY REVIEWS**

This guidance only addresses the Buy America requirements of the Pre-Award and Post-Delivery Reviews. The Purchaser's Requirements and the Federal Motor Vehicle Safety Standards requirements must still be met.

I. Pre-Award Review (before contract award)

Review data and information on Buy America compliance submitted by the manufacturer, including

Proposed domestic content of vehicle components to determine that the 60 percent United States content requirement is met;

- Proposed final assembly location; and
- Manufacturing activities that will take place during final assembly.

The manufacturer should provide enough detail about these activities to allow for the determination that these activities would constitute adequate final assembly under Buy America requirements. If the manufacturer does not provide sufficient information, the grantee must seek additional information. If the grantee determines that the activities are not adequate, the manufacturer must be asked to submit a revised manufacturing plan. A contract may not be awarded until the grantee is assured that the Buy America requirements will be met.

Final assembly is defined in 49 CFR Part 661 Buy America Requirements; Final Rule as "the creation of the end product from different elements brought together for that purpose through the application of manufacturing processes." In the case of the manufacture of a new rail car, final assembly would typically include, as a minimum, the following operations: installation and interconnection of propulsion control equipment, propulsion cooling equipment, brake equipment, energy sources for auxiliaries and controls, heating and air conditioning, communications equipment, motors, wheels and axles, suspensions and frames; the inspection and verification of all installation and interconnection work; and the in-plant testing of the stationary product to verify all functions. In the case of a new bus, final assembly would typically include, at a minimum, the installation and interconnection of the engine, transmission, axles, including the cooling and braking systems; the installation and interconnection of the heating and air conditioning equipment; the installation of pneumatic and electrical systems, door systems, passenger seats, passenger grab rails, destination signs, wheelchair lifts; and road testing, final inspection, repairs and preparation of the vehicles for delivery.


If a manufacturer's final assembly processes do not include all the activities that are

typically considered the minimum requirements, it can request a Federal Transit Administration (FTA) determination of compliance. FTA will review these requests on a case-by-case basis to determine compliance with Buy America.

The information reviewed supports a Pre-Award Buy America Certification that the proposed procurement meets the domestic content, the final assembly location and final assembly activities requirements.

II. Post-Delivery Review Requirements (during and after manufacturing)

The grantee is required to:

- Review actual component content to ensure that the vehicle meets the 60 percent Buy America domestic content requirement;
- Check that the final assembly location is in the United States and the manufacturer's final assembly activities meet the requirements outlined in paragraph I above; and
- Have an on-site inspector for rail car procurements and bus procurements of greater than 10 vehicles. 

The inspector must verify that the actual manufacturing processes are consistent with the information provided by the manufacturer or with the grantee's own assessments. The post-delivery reviews verifies a grantee's Post-Delivery Buy America Certification that the domestic content, final assembly location and final assembly activities requirements are met. Any questions or uncertainties concerning these activities should be referred immediately to FTA.