

CHATHAM AREA TRANSIT AUTHORITY IFB 2024-05, ADDENDUM NO. 1

DATE: March 28, 2024
ORIGINAL IFB NUMBER: 2024-05
PROJECT: CAT Central Interior Renovation
This Addendum forms a part of the Invitation for Bid 2024-05 dated, February 2, 2024.

**Build America, Buy America ACT Requirements & Updated Schedule of Events
Clarification on Contract Term:**

Buy America

What's New

Requirements for Construction Materials

- On October 25, 2023, OMB issued memorandum [M-24-02](#), "Implementation Guidance on Application of Buy America Preference in Federal Financial Assistance Programs for Infrastructure". This memorandum provides supplemental implementation guidance to Federal agencies on: (1) the application of a Buy America preference to Federal financial assistance programs for infrastructure; and (2) the circumstances and process for waiving such a Buy America preference. It rescinds and replaces [M-22-11](#), "Initial Implementation Guidance on Application of Buy America Preference in Federal Financial Assistance Programs for Infrastructure".
- On August 23, 2023, the U.S. Office of Management and Budget published new [2 CFR Part 184](#), guidance to Federal agencies implementing the Build America, Buy America Act (BABA). Part 184 largely does not affect FTA's existing standards for iron, steel, and manufactured products (see 2 CFR 184.2). Part 184's primary effects for FTA-funded infrastructure projects are to add domestic preferences for construction materials and additional procedures related to waivers.
- On August 16, 2023, DOT announced a public interest [Waiver of Buy America Requirements for De Minimis Costs and Small Grants](#). Domestic preferences are waived for iron, steel, manufactured products, and construction materials for which:
 - The total value of the non-compliant products is no more than the lesser of \$1,000,000 or 5% of total applicable costs for the project; or

- The total amount of Federal financial assistance applied to the project, through awards or subawards, is below \$500,000.
- On February 9, 2023, the Office of Management and Budget (OMB) issued a [Notice of Proposed Rulemaking \(NPRM\)](#) proposing to revise OMB Guidance for Grants and Agreements to support implementation of the Build America, Buy America Act (BABA) provisions of the Infrastructure Investment and Jobs Act. Comments on the NPRM must be submitted electronically to www.regulations.gov and are due by March 13.
- On February 7, 2023, FTA held a public webinar to provide an update on Buy America and discuss DOT's waiver of Buy America requirements for construction materials for certain contracts and solicitations.
 - Watch the [webinar](#)
 - View the [presentation](#)
- On January 30, 2023, DOT announced a new, limited [Waiver of Buy America Requirement for Construction Materials for Certain Contracts and Solicitations](#). The waiver is intended to assist project sponsors transitioning to using U.S. manufactured construction materials without delaying delivery of projects in sufficiently advanced stages.
- On November 7, 2022, FTA issued a [Dear Colleague Letter](#) providing updates on the Buy America construction materials requirement.
- On November 4, 2022, DOT announced it is not extending its temporary waiver for construction materials, making that requirement applicable effective November 10, 2022. Following the expiration of the temporary waiver on November 10, every award FTA obligates will require that any construction materials procured under the award be manufactured in the United States.
- On November 4, 2022, DOT also proposed two waivers: (1) a [waiver](#) for narrow categories of contracts and solicitations, to help certain ongoing procurements transition to the new construction materials standard, and (2) a narrow [waiver](#) for de minimis costs, small grants, and minor components, for all Buy America requirements, to allow DOT and its assistance recipients to focus their domestic sourcing efforts on products that provide the greatest manufacturing opportunities for American workers and firms and reduce delays in the delivery of important transportation infrastructure projects that provide jobs and promote economic growth. DOT is seeking comments by November 20, 2022 on the two proposed waivers.
- On May 19, 2022, the U.S. Department of Transportation issued a general [waiver](#) that delays the effective date of BABA's domestic preference requirements for construction materials, until November 10, 2022.
- On April 18, 2022, the U.S. Office of Management and Budget (OMB) issued memorandum [M-22-11](#), "Initial Implementation Guidance on Application of Buy America Preference in Federal Financial Assistance Programs for Infrastructure,"

to guide federal agencies' initial implementation of BABA. OMB also has published a [request for information](#) and invited public comments on key questions related to implementing BABA.

- On November 15, 2021, the Build America, Buy America Act (BABA) (Sections 70901-52 of the Infrastructure Investment and Jobs Act, [Public Law 117-58](#)) became law.

Partial General Non-availability Waiver for Unmodified Vans and Minivans

- On October 25, 2022, FTA published a [Federal Register notice](#) announcing a two-year waiver of its Buy America domestic content requirement for certain commercially produced vans and minivans used in public transportation, due to the unavailability of compliant vehicles.
- The partial waiver applies to procurements of mass-produced, unmodified vans and minivans and is critical to vanpool and public transportation services for passengers that do not require ADA-accessible vehicles.
- The waiver maximizes the domestic content in these vans and minivans by **requiring U.S. final assembly and U.S. manufacture of engines or motors**, as [reported](#) pursuant to the American Automotive Labeling Act.

Overview

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)). FTA's Buy America requirements apply to third-party procurements by FTA grant recipients. A grantee must include in its bid or request for proposal (RFP) specification for procurement of steel, iron or manufactured goods (including rolling stock) an appropriate notice of the Buy America provision and require, as a condition of responsiveness, that the bidder or offeror submit with the bid or offer a completed Buy America certificate in accordance with 49 CFR §§661.6 or 661.12.

Under limited circumstances, FTA may waive Buy America requirements if the agency finds that:

- application of Buy America is inconsistent with the public interest;
- the steel, iron, and goods produced in the U.S. are not produced in a sufficient and reasonably available amount or are not of a satisfactory quality; or

- including domestic material will increase the cost of the overall project by more than 25 percent for rolling stock.

The process for seeking a waiver is set forth in 49 CFR part 661. Grantees are encouraged to apply for a waiver as soon as possible and to provide detailed requests to expedite FTA's review. FTA's determinations on waiver requests are published in the Federal Register for notice and comment.

When procuring rolling stock, which includes train control, communication, traction power equipment, and rolling stock prototypes, the cost of the components and subcomponents produced in the U.S. must be:

- more than 60 percent for FY2016 and FY2017
- more than 65 percent for FY2018 and FY2019
- more than 70 percent for FY2020 and beyond

Final assembly for rolling stock also must occur in the U.S. Additionally, rolling stock procurements are subject to the pre-award and post-delivery Buy America audit provisions set forth in 49 U.S.C. § 5323(m) and 49 CFR part 663.

The phased increase in domestic content was included in the FAST Act. See our [Buy America FAST Act Fact Sheet](#).

Unlike rolling stock, manufactured goods must be 100-percent produced in the U.S. A manufactured good 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). FTA has issued a number of [Buy America guidance letters](#) discussing manufactured goods.

Schedule of Events:

IFB Submission Deadline	April 19, 2024, 2:00 p.m. EST
Evaluation Committee's Recommendation To Board of Directors	May 28, 2024
Notification of Award to Proposer	May 28, 2024

- **Clarification on item 1.1 on the IFB the contract term is for one 1 Year.**

END OF ADDENDUM NO. 1