

The topic of performance security will be addressed in the addendum to the Guide.

96. Ernst & Young commented that the Guide should include a discussion of milestone or final acceptance payments.

The FHWA has not included a discussion of construction payments from States within the Guide. The ability and willingness of States to finance such payments, and the constraints associated with the sources of funds that might be used, will vary widely from one jurisdiction, and often one project to another. As a result, it would be difficult to describe general principles that will be of much utility to State DOTs. A change to the Guide is not necessary to address this comment.

97. Ernst & Young commented that FHWA should include a discussion of independent engineers and effective strategies for efficiently managing approvals, oversight, and disputes in the addendum.

While FHWA agrees that independent engineers and oversight mechanisms are important topics, the addendum will not address this topic. However, dispute resolution will be addressed in the addendum.

98. Ernst & Young commented that FHWA should consider partially variable term lengths in its discussion of term lengths in the addendum.

The FHWA notes that this topic may be considered in the addendum.

99. Ernst & Young commented that FHWA should consider including a discussion of plate denial.

The FHWA considered discussing this topic in the Guide, but ultimately did not address this issue as it may be considered controversial in some jurisdictions.

100. Ernst & Young commented that FHWA should address incentives to lender step-in/rectification and the role of direct agreements in the addendum.

The FHWA notes that lenders' rights will be addressed in the addendum.

101. The PECCG commented that the Guide should include an indemnity of the Department to be provided by the Developer.

The FHWA notes that Indemnities will be addressed in the addendum.

Final Guide & Other Model Contract P-3 Products: The FHWA is not accepting any further comments regarding the Core Toll Concessions Public-Private Partnership Guide. The final version can be found on the docket (Docket No. FHWA-2014-0006) or at the following link: http://www.fhwa.dot.gov/ipd/pdfs/p3/model_p3_core_toll_concessions.pdf.

In addition to the Core Toll Concessions Public-Private Partnership Guide above, FHWA is also developing an Addendum document that will cover secondary, yet important provisions found in P-3 contracts. The secondary provisions will include issues such as performance standards, contract length, capacity triggers, consumer protections, Federal requirements, developer indemnities, lenders rights, insurance dispute resolution, and performance security. The provisions will be covered in less detail than the provisions in the Core Guide.

Another type of P-3 contract is the availability payment based contract. Funds from public sector revenues are the sources of payments to the private contractor in these transactions. These availability payments based transactions are increasingly popular. Many of the provisions found in the toll concessions guide will also be germane to the availability payments guide. The FHWA will be publishing an Availability Payments Model P-3 Contracts Guide in 2014.

Authority: Section 1534(d) of MAP-21 (Pub. L. 112-141, 126 Stat. 405).

Dated: August 27, 2014.

Gregory G. Nadeau,

Acting Administrator, Federal Highway Administration.

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DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[Docket No. FTA-2014-0019]

Notice of Proposed Buy America Waiver for the Pad and Rubber Boot of a Concrete Block Used in New York City Transit South Ferry Station's Low Vibration Track System

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of Buy America waiver.

SUMMARY: The Federal Transit Administration (FTA) is waiving its Buy America requirements for the procurement by New York City Transit (NYCT), an agency of the Metropolitan Transportation Authority (MTA), of pads and rubber boots of a concrete block used in its Low Vibration Track (LVT) system on the basis of non-availability. The procurement for the pads and rubber boots are part of the South Ferry Station Project. This waiver is limited to this one procurement for the South Ferry Station Project, and conditioned upon the requirement that

NYCT must complete the safety testing of U.S.-manufactured pads and rubber boots necessary to meet its specifications within the timeframe provided herein and substitute U.S.-manufactured pads and rubber boots for the foreign-made pads and rubber boots to the extent possible.

FOR FURTHER INFORMATION CONTACT: Richard Wong, Attorney-Advisor, at (202) 366-0675 or richard.wong@dot.gov.

SUPPLEMENTARY INFORMATION: The purpose of this notice is to announce that FTA is granting a non-availability waiver for the procurement of the pad and rubber boot of the concrete block used in NYCT's LVT system for the South Ferry Station Project.

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) The manufacturing processes for the product take place in the United States; and (2) 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 waiver (non-availability waiver). 49 U.S.C. 5323(j)(2)(B); 49 CFR 661.7(c).

On March 21, 2014, FTA granted a waiver for the pad and the rubber boot to MTA Capital Construction Company, a construction management company for MTA expansion projects that is responsible for managing NYCT's Second Avenue Subway (SAS) Project. This waiver was limited to Phase 1 of the SAS Project and in granting the waiver FTA expressed its expectation that MTA would continue its good faith efforts to seek U.S. manufacturers of the pad and rubber boot. On April 29, 2014, FTA followed up with a letter and reiterated its expectations that MTA continue to seek U.S.-manufactured pads and rubber boots and provided its findings on potential U.S. manufacturers.¹

¹ FTA leveraged the resources of the U.S. Department of Commerce, National Institute of Standards and Technology (NIST), through an interagency agreement currently in place, and had NIST conduct a supplier scouting resulting in a

On July 14, 2014, NYCT requested another Buy America waiver for the pads and rubber boots to be procured for its South Ferry Station Project. Both NYCT and Construction Polymers Technologies, Inc. (CPT), the manufacturer of the concrete block for which the pad and rubber boots are components, have been conducting their own searches to find a U.S.-manufactured pad and rubber boot. On August 20, 2014, FTA confirmed that the U.S.-manufacturing processes of the pad and rubber boot that CPT had found meet the requirements of Buy America. However, NYCT asserts that safety testing of U.S.-manufactured pads and boots must be conducted before they can be used in NYCT's LVT system. NYCT represents that all of the necessary testing that it must undertake with respect to new and untested items such as the pad and the boot will take approximately three months after CPT conducts its own testing and provides its results to NYCT. FTA has been informed that CPT expects to produce its test results to NYCT on or about September 15, 2014.

Because of the timing of its contract award, which NYCT anticipates will occur by September 30, 2014, as well as the construction schedule, NYCT requested a waiver. If the waiver is not granted, NYCT asserts that there would be no Buy America compliant items that also meet its safety specifications, which cannot be waived.

On August 20, 2014, FTA published a **Federal Register** notice requesting comment on NYCT's waiver request. 79 FR 49371. No comments were received to the docket.

Notwithstanding FTA's determination that the U.S.-made pad and rubber boot that CPT has found meets the Buy America requirements for manufactured components, because testing for the new pads and rubber boots must be performed that would cause delays to the South Ferry Station Project, FTA is hereby granting a non-availability waiver for the pad and rubber boot. The waiver is limited to a single procurement for the South Ferry Station Project and conditioned upon NYCT completing its testing of the U.S.-made pad and rubber boot within approximately three months of receipt of CPT's test results. NYCT must notify FTA's Regional Counsel for Region II in writing within five business days of receipt of CPT's test results, and within five business days of completion of its testing regarding the results of testing. Once all testing is completed and if the

testing confirms that the U.S.-made pads and rubber boots meet NYCT's safety specifications, FTA expects NYCT to substitute the U.S.-made pads and rubber boots for the foreign-made items to the extent possible.

Dana Nifosi,
Acting Chief Counsel.

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DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Revision of an Approved Information Collection; Comment Request; Company-Run Annual Stress Test Reporting Template and Documentation for Covered Institutions With Total Consolidated Assets of \$50 Billion or More Under the Dodd-Frank Wall Street Reform and Consumer Protection Act

AGENCY: Office of the Comptroller of the Currency, Treasury (OCC).

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on a revision to this information collection, as required by the Paperwork Reduction Act of 1995. An agency may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. Currently, the OCC is soliciting comment concerning a revision to a regulatory reporting requirement for national banks and Federal savings associations titled, "Company-Run Annual Stress Test Reporting Template and Documentation for Covered Institutions with Total Consolidated Assets of \$50 Billion or More under the Dodd-Frank Wall Street Reform and Consumer Protection Act."

DATES: Comments must be received by November 10, 2014.

ADDRESSES: Communications Division, Office of the Comptroller of the Currency, Mailstop 2-3, Attention: 1557-0319, 400 7th St. SW., Washington, DC 20219. In addition, comments may be sent by fax to (571) 465-4326 or by electronic mail to regs.comments@occ.treas.gov. You may personally inspect and photocopy comments at the OCC, 400 7th St. SW., Washington, DC 20219. For security

reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649-6700. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

FOR FURTHER INFORMATION CONTACT: You can request additional information from Johnny Vilela or Mary H. Gottlieb, OCC Clearance Officers, (202) 649-5490, for persons who are deaf or hard of hearing, TTY, (202) 649-5597, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 400 7th St. SW., Washington, DC 20219. In addition, copies of the templates referenced in this notice can be found on the OCC's Web site under News and Issuances (<http://www.occ.treas.gov/tools-forms/forms/bank-operations/stress-test-reporting.html>).

SUPPLEMENTARY INFORMATION: The OCC is requesting comment on the following revision to an approved information collection:

Title: Company-Run Annual Stress Test Reporting Template and Documentation for Covered Institutions with Total Consolidated Assets of \$50 Billion or More under the Dodd-Frank Wall Street Reform and Consumer Protection Act.

OMB Control No.: 1557-0319.

Description: Section 165(i)(2) of the Dodd-Frank Wall Street Reform and Consumer Protection Act¹ (Dodd-Frank Act) requires certain financial companies, including national banks and Federal savings associations, to conduct annual stress tests² and requires the primary financial regulatory agency³ of those financial companies to issue regulations implementing the stress test requirements.⁴ A national bank or Federal savings association is a "covered institution" and therefore subject to the stress test requirements if its total consolidated assets are more than \$10 billion. Under section 165(i)(2), a covered institution is required to submit to the Board of Governors of the Federal Reserve System (Board) and to its primary financial regulatory agency a report at such time, in such form, and containing such information as the primary financial regulatory agency may require.⁵ On October 9, 2012, the OCC published in the **Federal Register** a final rule implementing the section 165(i)(2)

¹ Public Law 111-203, 124 Stat. 1376, July 2010.

² 12 U.S.C. 5365(i)(2)(A).

³ 12 U.S.C. 5301(12).

⁴ 12 U.S.C. 5365(i)(2)(C).

⁵ 12 U.S.C. 5365(i)(2)(B).