

# CHANGE REQUEST COVER SHEET

**Change Request Number:** 11-52

**Date Received:** 7/21/2011

**Title:** Buy American Act Delegations

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**Phone:** (202) 267-7527

**Policy OR Guidance:** Guidance

**Section/Text Location Affected:** T3.6.4A.3

**Summary of Change:** Addition of threshold for Delegation of Authority to Contracting Officers of \$1M (\$100K for construction)

**Reason for Change:** Consistency with Delegation of Authority for Buy American Act Requirements under P.L. 101-508 dated October 8, 1991 (this document is also in AMS)

**Development, Review, and/or Concurrence:** Acquisition Policy Division

**Target Audience:** Contracting Workforce and Program Offices

**Potential Links within FAST for the Change:** None

**Briefing Planned:** No

**ASAG Responsibilities:** None

**Potential Links within FAST for the Change:** None

**Links for New/Modified Forms (or) Documents (LINK 1)**

**Links for New/Modified Forms (or) Documents (LINK 2)**

**Links for New/Modified Forms (or) Documents (LINK 3)**

## SECTIONS EDITED:

Procurement Guidance:

*T3.6.4 Foreign Acquisition*

*Foreign Acquisition*

**Section 3 : Buy American Act--Steel and Manufactured Products** [\[Old Content\]](#)[\[New Content\]](#) [\[RedLine Content\]](#)

## SECTIONS EDITED:

### **Section 3 : Buy American Act--Steel and Manufactured Products**

**Old Content:** Procurement Guidance:

*T3.6.4 Foreign Acquisition*

*Foreign Acquisition*

### **Section 3 : Buy American Act--Steel and Manufactured Products**

a. This section implements the Buy American provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Subtitle B of Title IX of Pub. L. 101-508, the Omnibus Budget Reconciliation Act of 1990), and Pub. L. 102-581, The Airport and Airway Safety, Capacity, Noise Improvement, and Intermodal Transportation Act of 1992, Title I, Sec. 103 and 104, (FAA Buy American) as these apply to the obligation of funds made available in appropriations after November 5, 1990.

b. Pursuant to Pub. L. 101-508, and notwithstanding any other provision of law, the CO will not obligate any funds authorized to be appropriated for any project unless steel and manufactured products used in such projects are produced in the United States. Projects funded by the Research, Engineering and Development appropriation are excluded from this provision.

c. The Administrator delegated all authority under subparagraph 3.a. to the Headquarters Director of Acquisition and Contracting; Regional Administrators; and Center Directors. These individuals have authority to (i) further delegate this authority to Contracting Officers; and (ii) waive application of the Buy American Act when finding that:

(1) Application would be inconsistent with the public interest;

(2) Such materials and products are not produced in the United States in sufficient and reasonable available quantities and of a satisfactory quality;

(3) In the case of the acquisition of facilities and equipment under the Airport and Airway Improvement Act of 1982:

(a) The cost of components and subcomponents which are produced in the United States is more than 60 percent of the cost of all components of the facility or equipment used in the project; and

(b) Final assembly of the facility or equipment described in this paragraph has taken place in the United States; or

(4) Inclusion of domestic material will increase the cost of the overall project contract by more than 25 percent.

d. There is no restriction against a company offering foreign steel or manufactured products in its proposal. The FAA, however, may not award to that company unless it is pursuant to one of the exceptions listed under paragraph c. above.

e. For the purposes of this section, in calculating components costs, labor costs involved in final assembly will not be included in the calculation.

f. Any acquisition of steel or manufactured products of the FAA not subject to Pub. L. 101-508 should be treated as covered under the Buy American Act (unless a Buy American Act exception applies). In the event of a conflict, the "Buy American-Steel and Manufactured Products" clause will take precedence over other Buy American Act-related clauses.

**New Content: Procurement Guidance:**

*T3.6.4 Foreign Acquisition*

*Foreign Acquisition*

**Section 3 : Buy American Act--Steel and Manufactured Products**

a. This section implements the Buy American provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Subtitle B of Title IX of Pub. L. 101-508, the Omnibus Budget Reconciliation Act of 1990), and Pub. L. 102-581, The Airport and Airway Safety, Capacity, Noise Improvement, and Intermodal Transportation Act of 1992, Title I, Sec. 103 and 104, (FAA Buy American) as these apply to the obligation of funds made available in appropriations after November 5, 1990.

b. Pursuant to Pub. L. 101-508, and notwithstanding any other provision of law, the CO will not obligate any funds authorized to be appropriated for any project unless steel and manufactured products used in such projects are produced in the United States. Projects funded by the Research, Engineering and Development appropriation are excluded from this provision.

c. The Administrator delegated all authority under subparagraph 3.a. to the Headquarters Director of Acquisition and Contracting; Regional Administrators; and Center Directors. These individuals have authority to (i) further delegate this authority to Contracting Officers for individual contract actions not exceeding \$1M in value (\$100,000 for construction contracts); and (ii) waive application of the Buy American Act when finding that:

(1) Application would be inconsistent with the public interest;

(2) Such materials and products are not produced in the United States in sufficient and reasonable available quantities and of a satisfactory quality;

(3) In the case of the acquisition of facilities and equipment under the Airport and Airway Improvement Act of 1982:

(a) The cost of components and subcomponents which are produced in the United States is more than 60 percent of the cost of all components of the facility or equipment used in the project; and

(b) Final assembly of the facility or equipment described in this paragraph has taken place in the United States; or

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e. For the purposes of this section, in calculating components costs, labor costs involved in final assembly will not be included in the calculation.

f. Any acquisition of steel or manufactured products of the FAA not subject to Pub. L. 101-508 should be treated as covered under the Buy American Act (unless a Buy American Act exception applies). In the event of a conflict, the "Buy American-Steel and Manufactured Products" clause will take precedence over other Buy American Act-related clauses.

**Red Line Content: Procurement Guidance:**

*T3.6.4 Foreign Acquisition*

*Foreign Acquisition*

**Section 3 : Buy American Act--Steel and Manufactured Products**

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b. Pursuant to Pub. L. 101-508, and notwithstanding any other provision of law, the CO will not obligate any funds authorized to be appropriated for any project unless steel and manufactured products used in such projects are produced in the United States. Projects funded by the Research, Engineering and Development appropriation are excluded from this provision.

c. The Administrator delegated all authority under subparagraph 3.a. to the Headquarters Director of Acquisition and Contracting; Regional Administrators; and Center Directors. These individuals have authority to (i) further delegate this authority to Contracting Officers *for*

*individual contract actions not exceeding \$1M in value (\$100,000 for construction contracts)*; and (ii) waive application of the Buy American Act when finding that:

- (1) Application would be inconsistent with the public interest;
- (2) Such materials and products are not produced in the United States in sufficient and reasonable available quantities and of a satisfactory quality;
- (3) In the case of the acquisition of facilities and equipment under the Airport and Airway Improvement Act of 1982:

- (a) The cost of components and subcomponents which are produced in the United States is more than 60 percent of the cost of all components of the facility or equipment used in the project; and

- (b) Final assembly of the facility or equipment described in this paragraph has taken place in the United States; or

- (4) Inclusion of domestic material will increase the cost of the overall project contract by more than 25 percent.

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