



## **NON-AVAILABILITY DETERMINATIONS WAIVER REQUIREMENTS**

As indicated in the applicable AMS Guidance and in accordance with OMB Memorandum M-21-26 “Increasing Opportunities for Domestic Sourcing and Reducing the Need for Waivers from Made in America Laws” dated June 11, 2021, all determinations of non-availability related to the Buy American Act or FAA Buy American Preference (except for the articles already determined non-available under T3.6.4A.3.e) must be approved by the FAA Acquisition Executive (FAE). After approval by the FAE, the FAE will coordinate final review of the waiver with the OMB Made in America Office (MIAO).

All waiver requests must address the following:

1. **Identification of agency and contracting activity.** Identify the agency, contracting activity, and program office.

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2. **Nature and/or description of end item(s), construction material, steel, or manufactured goods being acquired.** Identify the item(s) being procured, including the following:

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|---|--|
| Description of the item(s)  |  |
| Impact to the mission if the agency is unable to acquire the item(s)  |  |
| Country(ies) of origin and U.S. content (if any), of foreign end item or materials, intended for purchase, if known                                       |  |
| If the waiver is to be issued pre-award, whether the supplier of the item(s) or material intended for purchase is a small or small disadvantaged business |  |
| The estimated value of the procurement (or portion of the procurement covered by the waiver)  |  |



3. **Market research and outreach conducted.** Describe the market research activities and methods used to identify domestically manufactured items or materials capable of satisfying the requirement, including the timing of the research and conclusions reached on the availability of sources (e.g., sources are available but cannot offer sufficient quantity; sources are available but cannot offer sufficient quality; no sources can be identified).

Such analysis might include a review of information on category management dashboards on the acquisition gateway, consultation with category managers, supplier scouting with supply chain experts who study domestic capabilities and market trends, such as Manufacturing Extension Partnership, chambers of commerce, industry and trade associations that represent domestic suppliers, and relevant labor unions or worker organizations.

4. **Use of competition.** If the waiver is to be issued pre-solicitation, describe whether competition is anticipated; if the waiver is to be issued pre-award, describe whether competition was conducted and, if so, how long the solicitation was open; if domestic sources were identified during market research but did not compete, describe potential reason(s), if known.



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**Federal Aviation  
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5. **Expectation of price preference.** Identify whether the solicitation will or did include any applicable AMS clauses announcing the agency's intention to provide a price preference for domestic products and/or construction material.

6. **Exclusion of source offering a U.S.-made end product.** If a waiver is to be addressed pre-award, explain if a U.S.-made end product was offered but would be rejected for reasons other than price.

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Contracting Officers Representative (COR) Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
COR Name

\_\_\_\_\_  
Executive Level (Program or Service Organization)  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Executive Level Name



U.S. Department  
of Transportation  
**Federal Aviation  
Administration**

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Legal Concurrence Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Legal Name

\_\_\_\_\_  
Contracting Officer Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Contracting Officer Name

\_\_\_\_\_  
Contracts Division Manager Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Contracts Division Manager Name

\_\_\_\_\_  
Chief of the Contracting Office (COCO) Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
COCO Name

\_\_\_\_\_  
FAA Acquisition Executive (FAE) Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
FAE Name