



Federal Aviation Administration

Finding and Waiver 49 USC 50101 United States-made Percentage of Component Cost

Finding

Under 49 U.S.C. §50101 ("FAA Buy American"), the Federal Aviation Administration (FAA) may obligate appropriated funds for a project only if steel and manufactured goods used in the project are produced in the United States. The "FAA Buy American" permits waiving the requirement for United States-made manufactured goods when finding in the case of the acquisition of facilities and equipment under the Airport and Airway Improvement Act of 1982 that the cost of components and subcomponents produced in the United States is more than 60 percent of the cost of all components of the facility or equipment, and final assembly of the facility or equipment occurs in the United States.

- (1) The Acquisition Management System (AMS) implements a pre-award process requiring a vendor to certify in writing that United States-made content requirements of "FAA Buy American" will be satisfied. Similarly, the Buy American Act (41 U.S.C. 8301 *et seq*) is implemented in AMS by requiring a vendor to certify in writing that it will satisfy United States-made content requirements of the Act and will disclose foreign components or end products that may be offered.
- (2) The Contracting Officer may determine a vendor ineligible for an award if it fails to submit a proper and timely certification to "FAA Buy American" requirements.
- (3) The Contracting Officer may properly rely on a vendor's self-certification without further investigation when there is no pre-award information to conclude the vendor will furnish a foreign end product or component. However, the Contracting Officer must investigate beyond a vendor's self-certification if there is any indication a vendor will furnish a foreign-made end product or component. Should a vendor violate the self-certification and furnish a foreign product or component, the Contract Officer may invoke termination rights as a matter of contract administration. Vendors submitting false certifications may also be subject to suspension and debarment, and criminal penalties in the case of knowingly submitting a false certification.

Waiver

Based on the above findings, I hereby waive the requirements of 49 U.S.C. §50101 to purchase United States-made manufactured goods when:

- (1) A vendor certifies in writing before award that the cost of components and subcomponents produced in the United States is more than 60 percent of the cost of all components, and final assembly of the facility or equipment will occur in the United States; and
- (2) The Contracting Officer verifies proper and timely submission of the vendor's certification.

I do so with the authority granted to the Secretary by 49 U.S.C. §50101(b) and delegated to me by the FAA Administrator through memorandum dated April 3, 2012.

This waiver is valid until expressly rescinded.



Patricia A. McNall

Deputy Assistant Administrator for Acquisition & Business and
FAA Acquisition Executive

4/13/13

Date