

## § 659.41

### § 659.41 Conflict of interest.

The oversight agency shall prohibit a party or entity from providing services to both the oversight agency and rail transit agency when there is a conflict of interest, as defined by the state.

### § 659.43 Certification of compliance.

(a) Annually, the oversight agency must certify to the FTA that it has complied with the requirements of this part.

(b) The oversight agency must submit each certification electronically to FTA using a reporting system specified by FTA.

(c) The oversight agency must maintain a signed copy of each annual certification to FTA, subject to audit by FTA.

## PART 661—BUY AMERICA REQUIREMENTS

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AUTHORITY: 49 U.S.C. 5323(j) (formerly sec. 165, Pub. L. 97-424; as amended by sec. 337, Pub. L. 100-17, sec. 1048, Pub. L. 102-240, sec. 3020(b), Pub. L. 105-178, and sec. 3023(i) and (k), Pub. L. 109-59); 49 CFR 1.51.

EFFECTIVE DATE NOTE: At 72 FR 53696, Sept. 20, 2007, the authority citation was revised, effective Oct. 22, 2007. For the convenience of the user, the revised text is set forth as follows:

AUTHORITY: 49 U.S.C. 5323(j) (formerly sec. 165 of the Surface Transportation Assistance Act of 1982 (Pub. L. 97-424); as amended by sec. 337, Pub. L. 100-17; sec. 1048, Pub. L. 102-240; sec. 3020(b), Pub. L. 105-178; and sec. 3023(i) and (k), Pub. L. 109-59); 49 CFR 1.51.

## 49 CFR Ch. VI (10-1-07 Edition)

SOURCE: 56 FR 932, Jan. 9, 1991, unless otherwise noted.

### § 661.1 Applicability.

Unless otherwise noted, this part applies to all federally assisted procurements using funds authorized by the Federal Mass Transit Act of 1964, as amended; 23 U.S.C. 103(e)(4); and section 14 of the National Capital Transportation Act of 1969, as amended.

EFFECTIVE DATE NOTE: At 72 FR 53696, Sept. 20, 2007, § 661.1 was amended by removing "Federal Mass Transit Act of 1964, as amended" and adding in its place "49 U.S.C. 5323(j)", effective Oct. 22, 2007.

### § 661.3 Definitions.

As used in this part:

*Act* means the Surface Transportation Assistance Act of 1982 (Pub. L. 97-424), as amended by the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Pub. L. 109-59).

*Administrator* means the Administrator of FTA, or designee.

*Component* means any article, material, or supply, whether manufactured or unmanufactured, that is directly incorporated into the end product at the final assembly location.

*Contractor* means a party to a third party contract other than the grantee.

*FTA* means the Federal Transit Administration.

*Grantee* means any entity that is a recipient of FTA funds.

*Manufactured product* means an item produced as a result of the manufacturing process.

*Manufacturing process* means the application of processes to alter the form or function of materials or of elements of the product in a manner adding value and transforming those materials or elements so that they represent a new end product functionally different from that which would result from mere assembly of the elements or materials.

*Negotiated procurement* means a contract awarded using other than sealed bidding procedures.

*Rolling stock* means transit vehicles such as buses, vans, cars, railcars, locomotives, trolley cars and buses, and ferry boats, as well as vehicles used for support services.

*SAFETEA-LU* means the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Pub. L. 109-59).

*United States* means the several States, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

[71 FR 14117, Mar. 21, 2006]

EFFECTIVE DATE NOTE: At 72 FR 53696, Sept. 20, 2007, § 661.3 was revised, effective Oct. 22, 2007. For the convenience of the user, the revised text is set forth as follows:

#### § 661.3 Definitions.

As used in this part:

*Act* means the Federal Public Transportation Law (49 U.S.C. Chapter 53).

*Administrator* means the Administrator of FTA, or designee.

*Component* means any article, material, or supply, whether manufactured or unmanufactured, that is directly incorporated into the end product at the final assembly location.

*Contractor* means a party to a third party contract other than the grantee.

*End product* means any vehicle, structure, product, article, material, supply, or system, which directly incorporates constituent components at the final assembly location, that is acquired for public use under a federally-funded third-party contract, and which is ready to provide its intended end function or use without any further manufacturing or assembly change(s). A list of representative end products is included at Appendix A to this section.

*FTA* means the Federal Transit Administration.

*Grantee* means any entity that is a recipient of FTA funds.

*Manufactured product* means an item produced as a result of the manufacturing process.

*Manufacturing process* means the application of processes to alter the form or function of materials or of elements of the product in a manner adding value and transforming those materials or elements so that they represent a new end product functionally different from that which would result from mere assembly of the elements or materials.

*Negotiated procurement* means a contract awarded using other than sealed bidding procedures.

*Rolling stock* means transit vehicles such as buses, vans, cars, railcars, locomotives, trolley cars and buses, and ferry boats, as well as vehicles used for support services.

*System* means a machine, product, or device, or a combination of such equipment,

consisting of individual components, whether separate or interconnected by piping, transmission devices, electrical cables or circuitry, or by other devices, which are intended to contribute together to a clearly defined function. Factors to consider in determining whether a system constitutes an end product include: Whether performance warranties apply to an integrated system (regardless of whether components are separately warranted); whether products perform on an integrated basis with other products in a system, or are operated independently of associated products in the system; or whether transit agencies routinely procure a product separately (other than as replacement or spare parts).

*United States* means the several States, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the U.S. Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

#### APPENDIX A TO § 661.3—END PRODUCTS

The following is a list of representative end products that are subject to the requirements of Buy America. This list is representative, not exhaustive.

(1) *Rolling stock end products*: All individual items identified as rolling stock in § 661.3 (e.g., buses, vans, cars, railcars, locomotives, trolley cars and buses, ferry boats, as well as vehicles used for support services); train control, communication, and traction power equipment that meets the definition of end product at § 661.3 (e.g., a communication or traction power system).

(2) *Steel and iron end products*: Items made primarily of steel or iron such as structures, bridges, and track work, including running rail, contact rail, and turnouts.

(3) *Manufactured end products*: Infrastructure projects not made primarily of steel or iron, including structures (terminals, depots, garages, and bus shelters), ties and ballast; contact rail not made primarily of steel or iron; fare collection systems; computers; information systems; security systems; data processing systems; and mobile lifts, hoists, and elevators.

#### § 661.5 General requirements.

(a) Except as provided in § 661.7 and § 661.11 of this part, no funds may be obligated by FTA for a grantee project unless all iron, steel, and manufactured products used in the project are produced in the United States.

(b) All steel and iron manufacturing processes must take place in the United States, except metallurgical processes involving refinement of steel additives.

(c) The steel and iron requirements apply to all construction materials