



Billing Code: 4910-57-P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[Docket No. FTA-2012-0029]

Notice of Request to Rescind Buy America Waiver for Minivans and Minivan Chassis

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of request to rescind Buy America waiver and call for comments.

SUMMARY: The Vehicle Production Group LLC (VPG) has asked the Federal Transit Administration (FTA) to rescind the Buy America non-availability waiver it issued on June 21, 2010, for minivans and minivan chassis. According to VPG, it manufactures minivans and minivan chassis that comply with all Buy America requirements under 49 CFR 661.11, including the final assembly requirement that was the subject of the June 2010 waiver. FTA seeks public comment before deciding whether to grant the request. If granted, the waiver would no longer apply; all minivans and minivan chassis purchased with federal funds would have to comply with the final assembly requirement of 49 CFR 661.11.

DATES: Comments must be received by [INSERT DATE 30 DAYS AFTER PUBLICATION]. Late-filed comments will be considered to the extent practicable.

ADDRESSES: Please submit your comments by one of the following means, identifying your submissions by docket number FTA-2012-0029:

1. Web site: <http://www.regulations.gov>. Follow the instructions for submitting comments on the U.S. Government electronic docket site.

2. Fax: (202) 493-2251.

3. Mail: U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Docket Operations, M-30, West Building, Ground Floor, Room W12-140, Washington, DC 20590-0001.

4. Hand Delivery: U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Docket Operations, M-30, West Building, Ground Floor, Room W12-140, Washington, DC 20590-0001 between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Instructions: All submissions must make reference to the “Federal Transit Administration” and include docket number FTA-2012-0029. Due to the security procedures in effect since October 2011, mail received through the U.S. Postal Service may be subject to delays. Parties making submissions responsive to this notice should consider using an express mail firm to ensure the prompt filing of any submissions not filed electronically or by hand. Note that all submissions received, including any personal information therein, will be posted without change or alteration to <http://www.regulations.gov>. For more information, you may review DOT’s complete Privacy Act Statement in the Federal Register published April 11, 2000 (65 FR 19477), or you may visit <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Mary J. Lee, FTA Attorney-Advisor, at (202) 366-0985 or mary.j.lee@dot.gov.

SUPPLEMENTARY INFORMATION: The purpose of this notice is to seek public comment on whether the Federal Transit Administration (FTA) should rescind the non-

availability waiver it issued on June 21, 2010 (75 FR 35123). The waiver exempts minivans and minivan chassis from the Buy America final assembly requirements outlined at 49 CFR part 661, stating that it would remain in effect until such a time as a domestic source became available. If this waiver is rescinded, all minivans or minivan chassis purchased with Federal funds must comply with all Buy America requirements of 49 U.S.C. 5323(j), as implemented at 49 CFR 661.11. Among other things, compliance would require that final assembly for all minivans and minivan chassis take place in the United States.

The Vehicle Production Group LLC (VPG) asked FTA to rescind the minivan waiver. VPG manufactures the MV-1, a minivan assembled by AM General LLC (AM General) at AM General's plant in Mishawaka, Indiana. VPG certifies that the MV-1 complies with Buy America requirements for both domestic content and final assembly. Moreover, VPG maintains that it manufactures its MV-1 minivans in sufficient quantity to meet the current and future demand on FTA-funded projects.

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). One exception, or waiver, is allowed if "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." 49 U.S.C. 5323(j)(2)(B). FTA issued a non-availability waiver on June 21, 2010, for minivans and minivan chassis after finding that these items were not available from a domestic source

that was willing and able to provide U.S.-made minivans and minivan chassis to FTA grantees in compliance with the Buy America rules.

Although FTA is not required to publish a notice in the Federal Register before waiving its Buy America requirements on the basis of non-availability, or to rescind such a waiver, FTA sought comment from all interested parties regarding the availability of domestically manufactured minivans and minivan chassis in order to fully determine the absolute necessity of a waiver. Upon finding that minivans and minivan chassis are not available from a domestic source, FTA issued a waiver from its Buy America final assembly requirement under 49 CFR 661.11. However, FTA has continued to require compliance with FTA's domestic content requirement as well as the pre-award and post-delivery audit requirements under 49 CFR part 663.

The purpose of this notice is to publish VPG's request and to seek comment from all interested parties. Comments will help FTA to understand completely the facts surrounding VPG's request. Therefore, FTA seeks comment from all interested parties regarding a potential rescission of the waiver, the merits of VPG's request, and any effects such an action may have. A full copy of VPG's request has been placed in docket number FTA-2012-0029.

Issued on July 30, __ 2012.

Dorval R. Carter, Jr.
Chief Counsel

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