



DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[Docket No. FTA-2013-0035]

Notice of Proposed Buy America Waiver for a Video Ready Access Device Cabinet

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of proposed Buy America waiver and request for comment.

SUMMARY: The Charlotte Area Transit System (CATS) requested a waiver of the Federal Transit Administration (FTA) Buy America rules for a Video Ready Access Device (VRAD) cabinet. The VRAD cabinet is needed for an AT&T utility relocation associated with the LYNX Blue Line Extension project. This notice is to inform the public of the waiver request, and to seek public comment to inform FTA's decision whether to grant the request.

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-2013-0035:

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-2013-0035. 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 provide notice and seek comment on whether FTA should grant a non-availability waiver for the procurement of a VRAD cabinet that will be used in a utility relocation performed by AT&T. This utility relocation will be performed in connection with the CATS LYNX Blue Line Extension (BLE) project, which is an FTA-funded project.

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). A manufactured product is considered produced in the United States if: (1) all of the

manufacturing processes for the product must take place in the United States; and (2) all of the components of the product must be of U.S. origin. A component is considered of U.S. origin if it is manufactured in the United States, regardless of the origin of its subcomponents. 49 CFR 661.5(d). If, however, FTA determines that “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,” then FTA may issue a waiver (non-availability waiver). 49 U.S.C. 5323(j)(2)(B); 49 CFR 661.7(c).

On May 24, 2013, the City of Charlotte requested an interpretation of FTA’s Buy America rules with respect to the utility relocation performed for the LYNX BLE project. In an August 8, 2013 letter to the City of Charlotte, FTA determined that the VRAD cabinet is a component of the communications network end product. Having done its own analysis prior to FTA’s August 8, 2013 determination, on June 4, 2013, the City of Charlotte requested a non-availability waiver for the VRAD cabinet. According to the City of Charlotte, AT&T has been working diligently to find U.S. manufactured components and has been able to identify U.S. manufacturers of most of the components necessary for the utility relocation. The only component for which AT&T is unable to find a U.S. manufacturer is the VRAD cabinet.¹

¹ Initially, the City of Charlotte requested Buy America waivers for the VRAD cabinet and the Cross Connect cabinet. Since then, however, AT&T has been able to identify a U.S. manufacturer of the Cross Connect cabinet.

The purpose of this notice is to publish the request and seek public comment from all interested parties in accordance with 49 U.S.C. 5323(j)(3)(A). Comments will help FTA understand completely the facts surrounding the request, including the effects of a potential waiver and the merits of the request. A full copy of the request has been placed in docket number FTA-2013-0035.

Dana C. Nifosi
Deputy Chief Counsel

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