



FTA Authorization Fact Sheet Buy America



Purpose

The Buy America stipulation is intended to ensure that federal grants stimulate domestic economic activity. FTA funds must be used for goods that have a certain percent domestic content.

Statutory References

49 U.S.C. Section 5323, SAFETEA-LU Section 3023

Features

Four changes from the previous law:

- Requires the Secretary of Transportation to issue a written justification for public interest waivers on Buy America requirements. (Under the law, the Secretary may waive the Buy America requirements if they are deemed inconsistent with the public interest). The Secretary must publish the written justification in the federal register and provide the public with a reasonable period of time for notice and comment.
- A party adversely affected by an agency decision under the Buy America provision now has the right to seek an administrative review.
- Repeals the general waiver which allowed for waiving Buy America requirements for microprocessors. *Microprocessors are an important component of fare machines and system computers. Buy America requirements were waived for microprocessors since few are manufactured in the United States. The waiver was interpreted broadly to apply to the whole machine or computer rather than just the microprocessor itself. The new stipulation tightens the Buy America requirement by repealing the general waiver for microprocessors and requiring the Secretary to clarify that a microprocessor waiver refers only to the microprocessor itself, and does not extend to the product containing the microprocessor.*
- Requires the Secretary to define the terms “end product”, “negotiated procurement”, and “contractor.” *The main point of contention was the meaning of end product for non-rolling stock. For instance, is a single fare gate an end product, or is the completed fare system the end product?*
- A grant recipient may request a non-availability waiver from the Buy America requirements after the contract award if the contractor has made a certification of compliance with the requirements in good faith. *A contractor must certify that it can meet the Buy America requirements before being awarded a contract. If the contractor later finds that parts are not available to meet the Buy America requirement, the contractor may now request a waiver.*