



DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA – 2014-0130]

Notice of Buy America Waiver

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice of Buy America waiver.

SUMMARY: This Notice provides NHTSA’s finding with respect to a request from the Hawaii Department of Transportation’s Motor Vehicle Safety Office, Highway Safety Section (MVSO) to waive the requirements of Buy America. NHTSA finds that a cost waiver is appropriate for MVSO to purchase eight foreign-made training motorcycles using Federal grant funds because the cost of domestically produced products is twenty-five percent more than the cost of the foreign-made products.

DATES: The effective date of this waiver is **[INSERT DATE 10 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Written comments regarding this notice may be submitted to NHTSA and must be received on or before: **[INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Written comments may be submitted using any one of the following methods:

- **Mail:** Docket Management Facility, M-30, U.S. Department of Transportation, West Building, Ground Floor, Rm. W12-140, 1200 New Jersey Avenue, S.E., Washington, D.C. 20590.
- **Fax:** Written comments may be faxed to (202) 493-2251.

- **Internet:** To submit comments electronically, go to the Federal regulations website at <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- **Hand Delivery:** West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, S.E., between 9 am and 5 pm Eastern Time, Monday through Friday, except Federal holidays.

Instructions: All comments submitted in relation to this waiver must include the agency name and docket number. Please note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. You may also call the Docket at 202-366-9324.

FOR FURTHER INFORMATION CONTACT:

For program issues, contact Barbara Sauers, Office of Regional Operations and Program Delivery, NHTSA (phone: 202-366-0144). For legal issues, contact Andrew DiMarsico, Office of Chief Counsel, NHTSA (phone: 202-366-5263). You may send mail to these officials at the National Highway Traffic Safety Administration, 1200 New Jersey Avenue, S.E., Washington, D.C. 20590.

SUPPLEMENTARY INFORMATION:

This notice provides NHTSA's finding that a waiver of the Buy America requirements, 23 U.S.C. 313, is appropriate for the Hawaii's MVSO to purchase eight training motorcycles using grant funds authorized under 23 U.S.C. 402 (section 402) and 23 U.S.C. 405(f) (section 405) for training motorcycles. Section 402 funds are available for use by State Highway Safety Programs to reduce traffic accidents and deaths, injuries and property damage. 23 U.S.C. 402(a). Section 405(f) funds are available for use by State Highway Safety Programs to implement effective programs to reduce the number of single and multi-vehicle crashes involving

motorcyclists that, among other things, includes supporting training of motorcyclists. 23 U.S.C. 405(f).

Buy America provides that NHTSA “shall not obligate any funds authorized to be appropriated to carry out the Surface Transportation Assistance Act of 1982 (96 Stat. 2097) or [Title 23] and administered by the Department of Transportation, unless steel, iron, and manufactured products used in such project are produced in the United States.” 23 U.S.C. 313. However, NHTSA may waive those requirements if (1) their application would be inconsistent with the public interest; (2) such materials and products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or (3) the inclusion of domestic material will increase the cost of the overall project contract by more than 25 percent. 23 U.S.C. 313(b). In this instance, NHTSA has determined a cost waiver is appropriate for the eight motorcycles because domestically produced motorcycles would increase the cost by more than 25 percent.

MVSO seeks a waiver to purchase two 2015 Suzuki TU250X motorcycles at \$4,399 per unit and six 2013 Suzuki DR200SE motorcycles at \$4,299 per unit. The total purchase price for all eight motorcycles is \$36,221. Hawaii’s motorcyclist training program is designed to provide students the ability to learn and practice fundamentals of safe riding behavior, skills and motorcycle handling. Hawaii asserts that if students were required to provide their own motorcycles, many people would be discouraged from taking the safety courses and it would encourage some individuals to obtain a motorcycle and unsafely operate it on public roads before they are properly trained and licensed to do so. MVSO states that having a fleet of training motorcycles available for use during training ensures that the road skills portion of the curricula can be taught effectively and is more accessible to the general public. MVSO desires to use

these motorcycles for its motorcyclist training program because they are designed specifically with smaller engine displacement (250 CC), which is consistent with motorcyclist training programs. Hawaii, however, is unable to identify any training motorcycles that meet the Buy America requirements. MVSO researched¹ motorcycle models made by the two American motorcycle manufacturers, Harley-Davidson, Inc. and Victory Motorcycles. Harley Davidson produces a 500 CC motorcycle called the Street 500, with a MSRP of \$6799. Victory Motorcycles (including Indian Motorcycles) produces much heavier and larger engine displacement than 500 CC, with the lowest MSRP of \$12,499 for the Victory Vegas 8-ball motorcycle. MVSO was unable to find a motorcycle that meets the requirements for training motorcycles that would meet the Buy America requirements. NHTSA is unaware of any other domestic motorcycle manufacturers other than Harley-Davidson and Victory. Since the Harley Davidson Street has a starting price of \$6,799, it is more than 25 percent higher than the cost of a 2015 Suzuki TU250X and 2013 Suzuki DR200SE motorcycles. Accordingly, a Buy America waiver is appropriate. NHTSA invites public comment on this conclusion.

In light of the above discussion, and pursuant to 23 U.S.C. 313(b)(3), NHTSA finds that it is appropriate to grant a waiver from the Buy America requirements to MVSO in order to purchase two 2015 Suzuki TU250X and six 2013 Suzuki DR200SE motorcycles. This waiver applies to Hawaii and all other States seeking to use section 402 and 405 funds to purchase these motorcycles for the purposes mentioned herein. This waiver will continue through fiscal year 2015 and will allow the purchase of these items as required for Hawaii's MVSO and its training programs. Accordingly, this waiver will expire at the conclusion of fiscal year 2015 (September 30, 2015). In accordance with the provisions of Section 117 of the Safe, Accountable, Flexible,

¹ MVSO states that its Motorcycle Safety Program Coordinator conducted research via phone calls, emails and Internet searches to try to identify domestically produced motorcycles.

Efficient Transportation Equity Act: A Legacy of Users Technical Corrections Act of 2008 (Pub. L. 110-244, 122 Stat. 1572), NHTSA is providing this notice as its finding that a waiver of the Buy America requirements is appropriate for certain Suzuki motorcycles. Written comments on this finding may be submitted through any of the methods discussed above. NHTSA may reconsider these findings, if through comment, it learns of and can confirm the existence of a comparable domestically made product to the items granted a waiver.

This finding should not be construed as an endorsement or approval of any products by NHTSA or the U.S. Department of Transportation. The United States Government does not endorse products or manufacturers.

Authority: 23 U.S.C. 313; Pub. L. 110-161.

Issued in Washington, DC under authority delegated in 49 CFR part 1.95

O. Kevin Vincent,
Chief Counsel.

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