



DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA – 2014-0129]

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 Texas Department of Transportation, Traffic Safety Section (TxDOT) to waive the requirements of Buy America. NHTSA finds that a cost waiver of the Buy America requirements is appropriate for TxDOT to purchase Light-Up Magnifier Loupes using Federal highway safety 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 TxDOT to purchase of light-up magnifier loupes using grant funds authorized under 23 U.S.C. 405(d) (section 405). Section 405(d) funds are available for use by State highway safety programs to support effective programs to reduce driving under the influence of alcohol, drugs, or the combination of alcohol and drugs, including enforcement efforts. 23 U.S.C. 405(d).

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 that a cost waiver is appropriate for the items that TxDOT seeks to purchase using Federal grant funds.

TxDOT seeks a waiver to purchase 500 light-up magnifier loupes, with 15X power lens with ultra violet and LED lights (Item SKU:220-Loupe 4) from Lightgod.com. These items are not made domestically and retail between \$6.25 - \$7.00 each. The loupes are provided to law enforcement officers that complete training in the Focus on Reducing Impaired Driving Among Youth Program (FRIDAY) and Alcohol and Drug Abuse Prevention Training Program (ADAPT). According to TxDOT, both programs include a unit on the detection of altered and counterfeit identifications used by juveniles who commit alcohol-related crimes. The loupes are small and transportable and aid officers to detect counterfeit driver’s licenses by highlighting and magnifying the micro-printing and holograms that are present on a legal state driver’s license.

According to TxDOT, comparable domestic made loupes cost \$31 per unit in small quantities or \$20 per unit in bulk quantities, with both prices 25 percent more than the foreign made loupes than those made domestically.¹ TxDOT evaluated the place of manufacture for

¹ TxDOT did not identify the manufacturers of the domestic made loupes and NHTSA was unable to locate comparable domestic manufacturers offering loupes with the specifications identified by TxDOT.

other loupes, but TxDOT was unable to find any domestic made products that met its requirements. NHTSA conducted its own assessment² and located one domestic manufacturer of loupes or pocket magnifiers. ElectroOptics Inc. offers lighted pocket magnifiers with a magnification range from 4X to 10X and unlighted jeweler loupes. However, these products do not appear as robust or have the same specifications required for use by TxDOT. Since it appears that loupes that meet the requirements identified by TxDOT for use by its police officers would cost more than 25 percent more than a domestic manufacturer, the 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 TxDOT in order to purchase 500 light-up magnifier loupes, with 15X power lens with ultra violet and LED lights (Item SKU:220-Loupe 4) from Lightgod.com. This waiver applies to Texas and all other States seeking to use section 405(d) funds to purchase light-up magnifier loupes. This waiver will continue through fiscal year 2015 and will allow the purchase of these items as required for TxDOT. 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, 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 500 light-up magnifier loupes identified above from Lightgod.com. 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

² NHTSA conducted internet searches and reviewed several websites that catalog domestic made products: www.usaonly.us; www.americansworking.com; www.madeinamericaforever.com; and www.madeinusa.org.

of and can confirm the existence of a comparable domestically made product to the items granted a waiver.

These findings 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.

Billing Code: 4910-59-P
(signature page for Notice of Buy America waivers)

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