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DEPARTMENT OF TRANSPORTATION

[4910-22-P]

Federal Highway Administration

Buy America Waiver Notification

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice.

SUMMARY: This notice provides information regarding FHWA's finding that a Buy America waiver is appropriate for procurement of two non-domestic Ship-to-Shore Container Gantry Cranes to accommodate Ultra Large Container Vessels at the Port of Newark Container Terminal in the State of New Jersey.

DATES: The effective date of the waiver is [INSERT DATE ONE DAY AFTER PUBLICATION IN FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: For questions about this notice, please contact Mr. Gerald Yakowenko, FHWA Office of Program Administration, (202) 366-1562, or via e-mail at Gerald.Yakowenko@dot.gov. For legal questions, please contact Mr. William Winne, FHWA Office of the Chief Counsel, (202) 366-1397, or via e-mail at William.Winne@dot.gov. Office hours for FHWA are from 8:00 a.m. to 4:30 p.m., E.T., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may be downloaded from the Federal Register's home page at: <http://www.archives.gov> and the Government Publishing Office's database at: <https://www.gpo.gov/fdsys/>.

Background

The FHWA's Buy America policy in 23 CFR 635.410 requires a domestic manufacturing process for any steel or iron products (including protective coatings) that are permanently incorporated in a Federal-aid construction project. The regulation also provides for a waiver of the Buy America requirements when the application would be inconsistent with the public interest or when satisfactory quality domestic steel and iron products are not sufficiently available. This notice provides information regarding FHWA's finding that a Buy America waiver is appropriate for use of non-domestic Ship-to-Shore Container Gantry Cranes to accommodate Ultra Large Container Vessels at the Port of Newark Container Terminal in the State of New Jersey.

In accordance with the Consolidated Appropriations Act, 2016 (Pub. L. 114-113) and the Continuing Appropriations Act, 2017 (Pub. L. 114-223), FHWA published a notice of intent to issue a waiver on its Web site:

<http://www.fhwa.dot.gov/construction/contracts/waivers.cfm?id=134> on September 20th.

The FHWA received three comments in response to the publication. The commenters provided general comments on Buy America with no specific information regarding domestic sources for Ship-to-Shore Container Gantry Cranes. Based on all the information available to the agency, FHWA concludes that there are no domestic manufacturers of Ship-to-Shore Container Gantry Cranes to accommodate Ultra Large Container Vessels at the Port of Newark Container Terminal.

The New Jersey State DOT, contractors, and subcontractors involved in the procurement of ship-to-shore container gantry cranes, are reminded of the need to comply with the Cargo Preference Act in 46 CFR Part 38, if applicable.

In accordance with the provisions of section 117 of the SAFETEA-LU Technical Corrections Act of 2008 (Pub. L. 110-244, 122 Stat. 1572), FHWA is providing this notice as its finding that a waiver of Buy America requirements is appropriate. The FHWA invites public comment on this finding for an additional 15 days following the effective date of the finding. Comments may be submitted to FHWA's Web site via the link provided to the waiver page noted above.

(Authority: 23 U.S.C. 313; Pub. L. 110-161, 23 CFR 635.410)

Issued on: November 23, 2016

Gregory G. Nadeau
Administrator
Federal Highway Administration

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