



DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[Docket No. FTA-2017-0014]

Notice of Proposed Buy America Waiver for Motor Brakes and Machinery Brakes for the SE 3rd Avenue Bascule Bridge Modification in Fort Lauderdale, Florida

AGENCY: Federal Transit Administration, DOT.

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

SUMMARY: The Federal Transit Administration (FTA) received a request from the Florida Department of Transportation (FDOT) for a Buy America non-availability waiver for the procurement of motor brakes and machinery brakes (collectively, “the brake units”) for the SE 3rd Avenue Bascule Bridge Modification in Fort Lauderdale, Florida, as part of the Wave Streetcar project because there are no domestic manufacturers of the brake units. FTA is providing notice of the non-availability waiver request and seeks public comment before deciding whether to grant FDOT’s request. The size of the disc and drum brakes required for this bridge are not domestically available, and the Federal Highway Administration (FHWA) granted FDOT waivers for this equipment for another project. FTA is providing notice of the waiver request and seeks public comment before deciding whether to grant the request.

DATES: Comments must be received by [INSERT DATE, 14 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]. Late-filed comments will be considered to the extent practicable.

ADDRESSES: Please identify your submission by Docket Number (FTA-2017-0008) through one of the following methods:

- Federal eRulemaking Portal: Submit electronic comments and other data to <http://www.regulations.gov>.
- U.S. Mail: Send comments to Docket Operations; U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Room W12-140, Washington, DC 20590-0001.
- Hand Delivery or Courier: Take comments to Docket Operations in Room W12-140 of the West Building, Ground Floor, at 1200 New Jersey Avenue SE, Washington, DC, between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.
- Fax: Fax comments to Docket Operations, U.S. Department of Transportation, at (202) 493-2251.

Instructions: You must include the agency name (Federal Transit Administration) and Docket Number (FTA-2017-0014) for this notice, at the beginning of your comments. If sent by mail, submit two copies of your comments. Due to security procedures in effect since October 2001, mail received through the U.S. Postal Service may be subject to delays. Parties submitting comments should consider using an express mail firm to ensure their prompt filing of any submissions not filed electronically or by hand. If you wish to receive confirmation that FTA received your comments, you must include a self-addressed stamped postcard. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. You may review U.S. DOT's complete Privacy Act Statement published in the Federal Register on April 11, 2000, at 65 FR 19477-8 or <http://DocketsInfo.dot.gov>.

Electronic Access and Filing: This document and all comments received may be viewed online through the Federal eRulemaking portal at <http://www.regulations.gov>. Electronic submission and retrieval help and guidelines are available on the Web site. It is available 24 hours each day, 365 days a year. Please follow the instructions. An electronic copy of this document may also be downloaded from the Office of the Federal Register's home page at <https://www.federalregister.gov>.

FOR FURTHER INFORMATION CONTACT: Laura Ames, Attorney Advisor, at (202) 366-2743 or Laura.Ames@dot.gov.

SUPPLEMENTARY INFORMATION:

The purpose of this notice is to provide notice and seek comment on whether the FTA should grant a non-availability waiver for FDOT's purchase of motor brakes and machinery brakes for the SE 3rd Avenue Bascule Bridge Modification in Fort Lauderdale, Florida, as part of the Wave Streetcar project. The proposed Wave Streetcar project will serve downtown Fort Lauderdale, spanning the New River to connect the hospital and courthouse districts on the south side with the downtown business core and government, education, shopping, recreation and entertainment centers on the north side. The design of the 2.8-mile route was expanded in October 2015 to include a loop on the north end in Flagler Village to capture recent and future residential and retail development in that area. The construction of the Wave Streetcar is currently scheduled to begin in mid-2017.

Mechanical drive systems have inherent braking requirements. AASHTO Movable Highway Bridge Design Specifications (MHBDS) require disc or drum brakes. The intent of AASHTO MHBDS 5.5, 5.6, 6.7.13 and the FOOT Structures Design Guidelines (SDG) Section 8.6.7 is to provide two sets of brakes – motor brakes and machinery brakes. This requirement

provides stopping and holding as well as a failsafe within the gear train of the operating machinery. FDOT's research indicates that the size of the disc and drum brakes required for this bridge are not domestically available. All recent new construction and rehabilitation of various moveable bridges in Florida have required Buy America waivers, including a Buy America waiver granted by FHWA on May 2, 2016 for the same items. 81 FR 26305 (May 2, 2016).

Specific requirements for the brakes are as follows: All brakes shall be spring actuated, thruster released, stainless steel, drum type brakes with adjustable torque setting and set time delay settings. Span drive brakes shall be sized per Movable Highway Bridge Design Specifications (MHBDS) with the exception that ice accretion loads may be ignored. Brakes shall be mill duty brakes meeting Association of Iron and Steel Engineers – National Electrical Manufacturers Association (AISE – NEMA) Standards. The brake setting shall be no more than 90% and no less than 40% of the continuous rated capacity. The delay setting for each set of brakes shall be staggered to prevent all brakes from setting simultaneously and shock loading the machinery.

There are no options other than the correct type of machinery brakes for failsafe and timed gradual setting. Brakes are an integral part of the movable bridge design. Brakes provide stopping and parking of the bascule leaves and are MHBDS required devices for the safety of the traveling public, both vehicular and navigation gradual setting. The brake application must be gradual as per the specified thruster to prevent damage to the bridge, loss of power or E-stop. Brakes are an integral part of the movable bridge design. Brakes provide stopping and parking of the bascule leaves and are MHBDS required devices for the safety of the traveling public, both vehicular and navigation.

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 take place in the United States; and (2) all of the components of the product are 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).

Throughout the brake manufacturing industry, it is well documented that there are no brakes made in the United States that satisfy both the project requirements and the Buy America requirements. FDOT engaged in extensive efforts to identify and locate qualified domestically manufactured brake products, including contacting numerous known bridge brake manufacturers. FDOT's recent experience on similar projects has shown that contractors have been unable to locate qualified bridge brakes of either the shoe or disc type that have all components made in the United States. FDOT also has made an extensive effort to locate qualified domestically made brake products, including contacting known bridge brake manufacturers including the following manufactures: Johnson Industries, Mondel (made by Magnetek), Gemco (made by Ametek), Link Controls, Bubenzer, and Hiden. The manufacturers confirmed that they do not produce a product that meets both the Buy America provisions in accordance 49 C.F.R. 661.7(c) and 49 U.S.C. 5323(j), and the requirements of

AASHTO MHBDS Articles 5.5, 5.6 and 6.7.13. FDOT also conducted an internet search, which revealed several other brake manufacturers, but none make a qualified brake in the United States. Additionally, FDOT's program management consultant contacted several contractors that supply machinery and brakes for movable bridges but had no success in locating a qualified brake made entirely in the United States. FDOT's Program Management Consultant also has discussed this issue with other design engineers experienced in movable bridge machinery design and confirmed that they too have not been able to locate qualified brake products which are made in the United States.

Finally, under 49 U.S.C. 5323(j)(6), FTA cannot deny an application for a waiver based on non-availability unless FTA can certify that (i) the steel, iron, or manufactured good (the "item") is produced in the United States in a sufficient and reasonably available amount; and (ii) the item produced in the United States is of a satisfactory quality. Additionally, FTA must provide a list of known manufacturers in the United States from which the item can be obtained. FTA is not aware of any United States manufacturers who produce the motor brakes and machinery brakes required for the SE 3rd Avenue Bascule Bridge Modification project.

FDOT's efforts to identify domestic manufacturers for the motor brakes and machinery brakes required for the SE 3rd Avenue Bascule Bridge Modification project were unsuccessful. FTA proposes to grant FDOT a non-availability waiver of the Buy America requirements for the motor brakes and machinery brakes required for the SE 3rd Avenue Bascule Bridge Modification project.

FTA is publishing this Notice to seek public and industry comment from all interested parties in accordance with 49 U.S.C. 5323(j)(3)(A). Such information and comments will help FTA understand completely the facts surrounding the request, including the merits of the request.

After consideration of the comments, FTA will publish a second notice in the Federal Register with a response to comments and noting any changes made to the proposed waiver because of the comments received. A full copy of the request has been placed in docket number FTA-2017-0014.

K. Jane Williams,
Acting Administrator.

[FR Doc. 2017-23381 Filed: 10/26/2017 8:45 am; Publication Date: 10/27/2017]