

## Pre-Award and Post-Delivery Review Requirements

### A. Justification Statement

1. Circumstances that make the collection necessary.

This is a request for continuation of a current approval and to estimate the burden of specific certification requirements on federally-supported purchases of transit rolling stock. In this request we are seeking a reapproval for three certifications (including Buy-America and Post-Delivery certifications and the Pre-Award and Post Delivery certifications), which must be completed at each stage of a transit rolling stock purchase by the Federal Transit Administration (FTA) grantees. The certification forms are set forth at 49 CFR 661.6 and 49 CFR 661.12. Legal authority for these sections is Public Law 97-424, the Surface Transportation Assistance Act of 1982, as amended (STAA). Section 165 of STAA provides, with exceptions, that all steel and manufactured products used in FTA-funded contracts must be of U.S. origin. FTA regulations (49 CFR 661) require all bidders to certify compliance with the general or the specific requirements for rolling stock.

2. How, by whom, and for what purpose the information is to be used.

The Pre-Award and Post-Delivery certification forms are used by FTA grantees and bidders on FTA-funded contracts to assure that the products purchased for transit projects comply with the applicable statutory and regulatory requirements. This assurance of compliance is necessary because FTA grantees must agree to include Buy America provisions in their contracts for purchase of products and equipment.

Anyone seeking to supply a manufactured product to a grantee requiring Buy-America compliance must provide completed Buy America certificates as a part the proposal.

3. To what extent, the collection of information involves information technology and uses information technology to reduce the burden.

The information is kept in the grantee's file. FTA will only review the information during its triennial reviews of the grantee's FTA projects or if there is a problem with rolling stock procurement.

4. Describe efforts to identify duplication.

There is no duplication because the information requested is not required by any other source.

5. Describe methods used to minimize burden on small business or other small entities.

Grantees are not expected to verify the accuracy of the manufacturer's data absent of information to call the certification into question. The reporting burden, in the form of signing a brief certificate, is minimal and not expected to vary significantly among grantees.

6. Consequences to federal program or policy activities if collection were conducted less frequently.

To comply with the Buy America provision, this information cannot be collected less frequently because the certificate must accompany each rolling stock procurement.

7. Special circumstances that would cause an information collection to be conducted in a manner inconsistent with the guidelines in 5 CFR 1320.6.

The collection is consistent with 5 CFR 1320.6.

8. Efforts to consult with persons outside the agency to obtain their views.

A 60-day Federal Register notice was published on April 3, 2007 (pages 15933 and 15934), soliciting comments prior to submission to the Office of Management and Budget (OMB).

FTA received one docket comment. Miami-Dade Transit indicated the information gathering, review of invoices, review of certifications, review of the components list from the bidder/vendor and subsequent analysis was required for compliance with Buy America requirements. Miami-Dade Transit stated "The estimated burden of one average properly executed Buy America compliance audit or review is approximately 400 to 500 hours ..." FTA believes Miami Dade Transit miscalculates the number of hours that are required for compliance with Buy-America. According to OMB's 2006 guidance, "burden hours are a measure of the time it takes respondents to review instructions, search data sources, complete and review their responses, and transmit or disclose information." Miami Dade Transit mistakenly included the time a resident inspector spends on-site at a rolling stock manufacturing facility. Although an on-site inspector is a regulatory compliance requirement, the inspector's primary function is to ensure compliance with the final assembly process - not for the purpose of compiling and developing the reports that are subject to Paperwork Reduction Act.

FTA has reviewed a significant number of Buy America rolling stock audit certifications to determine that the normal report preparation time for the Pre-Award

report is about 10 minutes based on a review of existing manufacturer-provided data and summaries. The Post Delivery Audit Report preparation by the transit agency is about 45 minutes if the rolling stock manufacturer is instructed on the proper information and documentation to be supplied to the transit agency to support the report's development. If additional hours are needed, it is usually because the manufacturer did not provide proper or accurate data to the transit agency for analysis and review as part of the transit agency's Post Delivery Audit Report.

A 30-day Federal Register notice was published June 13, 2007.

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

No gifts or payments are made to respondents.

10. Describe any assurance of confidentiality provided to respondents.

The certification form does not contain any confidential information. It is a statement that certifies compliance with the requirements.

11. Provide additional justification for any questions of a sensitive nature.

There are no questions of a sensitive nature.

12. Provide estimate of the hour burden of the information collection and annualized cost to respondents.

- a. The hourly burden

The burden for the Pre-Award/Post-Delivery certification is approximately 10 minutes and for the Pre-Award and Post-Delivery procurement certifications an hour each, for total of 2.16 hours (2.16 x 700 procurements = 1,512 hours).

The recordkeeping burden per procurement is approximately 10 minutes (.16 hours x 700 procurements = 112 hours). In addition, manufacturers submit information to the grantees on their Buy America breakout which takes approximately 1.66 hours to review (1.66 hours x 700 procurements = 1,162 hours). The reviews could take up to 3 hours if the manufacturers have to be contacted because they did not submit adequate information. The total annual burden is estimated as follows:

1,512 hours (certifications) + 112 hours (recordkeeping) + 1,162 hours (Buy America reviews) = 2,786 hours.

b. Estimated annual cost

Using a rate of \$36.50 for an hourly rate to the grantee, the total annual cost is estimated to be \$101,689 (\$36.50 x 2,786 hours).

13. Estimate of total annual cost burden to respondents or recordkeepers resulting from the collection of information (not including the cost of any hour burden shown in Items 12 and 14).

There are no additional costs beyond that shown in Items 12 and 14.

14. Estimates of annualized cost to the federal government.

There is no estimated annual cost to the federal government. Neither FTA nor any other federal agency is required to review, receive, file, or retain certifications.

15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14.

Review time has been reduced from two hours to one hour and 40 minutes as a result of increased use of emails and of Excel spreadsheets.

16. Plans for tabulation and publication for collections of information whose results will be published.

None of the information collected will be put to statistical use.

17. If seeking approval not to display the expiration date for OMB approval, explain the reasons.

There is no reason not to display the OMB approval.

18. Explain any exception to the certification statement identified in Item 19 of OMB Form 83-I.

No exceptions are stated.

- B. Collections of information employing statistical methods.

Not applicable.