

THE STATEN ISLAND FERRY DIVISION
THE NEW STATEN ISLAND OLLIS CLASS FERRY SOLICITATION
BUY AMERICA COMPLIANCE AUDIT PROCESS GUIDANCE DOCUMENT

The New York City Department of Transportation (Agency) is responsible for conducting pre-award and post-award audits in accordance with the Federal Transit Administration's (FTA) Buy America Audit requirements contained in 49 CFR Part 663. This document is intended to be an aide to the Agency in its compliance obligations and it describes the process that the Agency may follow to audit the lowest responsive and responsible bidder in order to verify compliance with Buy America regulations in 49 CFR 661. The audits will enable the Agency to ensure that the domestic content of the vessels is in compliance with the applicable FTA guidelines.

The Agency's Pre-Award Buy America Audit process will be as follows:

- Agency will assign an independent Auditor to perform the audit.
- Prior to conducting the audit, the Auditor will sign a Non-Disclosure Agreement (NDA) with the Bidder, which shall only cover on-site review of the cost and pricing data that the Auditor does not retain or remove from the Contractor's premises. This is to assure the Bidder that the information on cost and pricing provided to Auditor is held in strictest confidence. No information on cost and pricing disclosed to the Auditor will be transmitted to any outside party, including the Agency or FTA. The Auditor's findings will be reported in terms of compliance/non-compliance and percentages of domestic content. Any documents retained by the Auditor shall become the property of City of New York (City) acting on behalf of the Agency, and the Agency makes no representation that the information will be kept confidential but will, to the extent permissible under applicable law, protect from disclosure any trade secret materials or otherwise confidential information submitted to or made available by the Bidder/Contractor to the City under this Contract provided that the Bidder/Contractor timely notifies the City of, and clearly labels, the information which the Bidder/Contractor deems to be trade secret materials or otherwise confidential information.
- During the Pre-Award Audit and any subsequent audits conducted by the NYCDOT, the Auditor will review the following documentation provided by the Bidder –
 - The Bidder will provide the Auditor with an Expanded Makers List or equivalent document that should include a complete listing of components showing each component supplier's name, manufacturing location, pricing, and percentage of domestic and foreign content It is recommended that the bidder require all suppliers to include this information during their quotations to the bidder. A sample component listing and format for documenting their information is provided in Attachment 3b located in Book 2 of the Contract. This sample Attachment 3b is provided for guidance only. The Bidder may elect to provide the information to Auditor in another format.
 - The Bidder will make available to Auditor the documentation in the form of quotations or other correspondence (i.e. emails, letters, etc.) to facilitate the Auditor's verification of the above component cost.
 - The Bidder shall instruct all component suppliers listed on the Expanded Makers List to provide Buy America Compliance certificates identifying their proposed domestic/

foreign content. A sample format for the certificate to be completed by each supplier is provided in Attachment 3a located in Book 2 of the Contract.

- The Auditor will review the list of final assembly activities to verify it complies with Federal requirements and will review the cost of final assembly provided by the bidder to determine it is reasonable.
- To verify final assembly location and its capability to perform stated final assembly work, the Auditor will visit the Bidder's final assembly facility, which shall be located within the United States, with the Project technical team.
- The Auditor will submit a final report of the Pre-Award Buy America Audit to the Agency confirming Buy America compliance.

During the contract phase, the Contractor shall provide updates on any Buy America domestic and foreign content changes in its monthly progress report to the Agency.

Interim and Post-Delivery Buy America Audits, which shall be performed during the contract phase, will follow the same process as outlined above for Pre-Award Audit, with the following changes –

- Bidder's Expanded Makers List or equivalent document shall be updated to include actual component cost information for all component suppliers.
- The Contractor shall make available to Auditor the actual subcontracts and/or purchase order documentation to facilitate Auditor's verification of the above component cost. The Auditor will also conduct a sampling audit of the Contractor's payments to suppliers.
- The Contractor shall instruct all component suppliers listed on the Expanded Makers List to provide updated Buy America Compliance certificates (as needed), identifying their actual domestic / foreign content.
- The Auditor will review the updated list of final assembly activities to verify it complies with Federal requirements and will review the actual final assembly cost information provided by the bidder to determine it is reasonable.
- The Auditor will visit the Contractor's final assembly facility to review ongoing final assembly activities and will interview the Agency's Resident Engineer to verify final assembly compliance with Federal requirements.