

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA – 2015-0005]

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 to waive the requirement of Buy America from the Traffic Safety Office (TSO) of the Ohio Department of Public Safety. NHTSA finds that a non-availability waiver of the Buy America requirement is appropriate for the purchase of printers using Federal highway traffic safety grant funds because there are no suitable products produced in the United States.

DATES: The effective date of this waiver is **[INSERT DATE 5 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 a.m. and 5 p.m. 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 requirement, 23 U.S.C. 313, is appropriate for Ohio’s TSO to purchase printers using grant funds authorized under 23 U.S.C. 405(c) (section 405) and its predecessor, 23 U.S.C. 408.¹ Section 405(c) funds are available for use by State highway traffic safety programs to support the development and implementation of effective State programs that, among other things, improve the timeliness, accuracy, completeness, uniformity, integration, and accessibility of State traffic safety data. 23 U.S.C. 405(c)(1).

¹ 23 U.S.C. 408 was repealed by the Moving Ahead for Progress in the 21st Century (MAP-21) Act, Pub. L. 112-141 § 31109(d), 126 Stat. 756 (2012), and recodified at 23 U.S.C. 405(c).

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 non-availability waiver is appropriate for the printers that Ohio’s TSO seeks to purchase using Federal grant funds.

Ohio’s TSO seeks a waiver to purchase 250 Brother Pocket Jet 6 Plus printer vehicle kits at \$468.90 per unit to be used in Ohio’s mobile ticketing e-citation system and software package as part of a pilot program.² Ohio indicates that it has used the Brother printer in enforcement vehicles for several years and it has proven to be a durable mobile printing device for the type of environment they are used in and the applications used by law enforcement.

Ohio’s TSO is unable to identify any domestically manufactured mobile printers that meet the requirements specified for the mobile printers for use in its enforcement vehicles.³ NHTSA conducted similar assessments⁴ and was unable to locate domestic manufacturers of mobile printers with the specifications required by Ohio’s TSO. Since a mobile printer that meets the requirements identified by TSO for use by its police officers is unavailable from a

² As part of its initial request, TSO sought a waiver for vehicle printer mounts. However, TSO has withdrawn its waiver request for those items.

³ TSO requires mobile printers that are small (10.04” long x 2.17” width x 1.18” height), 300 x 300 DPI, Bluetooth enabled, direct thermal, uses full letter size page (8 ½” x 11”) and prints at 6 pages per minute.

⁴ NHTSA conducted internet searches and reviewed several websites that catalog products domestic made products: www.usaonly.us; www.americansworking.com; www.madeinamericaforever.com; www.unionbuiltpc.com and www.madeinusa.org.

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)(2), NHTSA finds that it is appropriate to grant a waiver of the Buy America requirement to TSO in order to purchase 250 Brother Pocket Jet 6 Plus printer vehicle kits. This waiver applies to Ohio and all other States seeking to use section 405(c) and eligible section 408 funds to purchase 250 Brother Pocket Jet 6 Plus printer vehicle kits for the purposes mentioned herein. This waiver will continue through fiscal year 2015 and will allow the purchase of these items as required for Ohio's TSO. 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 requirement is appropriate for the Brother Pocket Jet 6 Plus printer vehicle kits.

Written comments on this finding may be submitted through any of the methods discussed above. NHTSA may reconsider this finding, if through comment, it learns of additional relevant information regarding its decisions to grant and deny TSO's waiver request.

This finding 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.

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