

§ 661.1

49 CFR Ch. VI (10–1–10 Edition)

§ 661.1 Applicability.

Unless otherwise noted, this part applies to all federally assisted procurements using funds authorized by 49 U.S.C. 5323(j); 23 U.S.C. 103(e)(4); and section 14 of the National Capital Transportation Act of 1969, as amended.

[56 FR 932, Jan. 9, 1991, as amended at 72 FR 53696, Sept. 20, 2007]

§ 661.3 Definitions.

As used in this part:

Act means the Federal Public Transportation Law (49 U.S.C. Chapter 53).

Administrator means the Administrator of FTA, or designee.

Component means any article, material, or supply, whether manufactured or unmanufactured, that is directly incorporated into the end product at the final assembly location.

Contractor means a party to a third party contract other than the grantee.

End product means any vehicle, structure, product, article, material, supply, or system, which directly incorporates constituent components at the final assembly location, that is acquired for public use under a federally-funded third-party contract, and which is ready to provide its intended end function or use without any further manufacturing or assembly change(s). A list of representative end products is included at Appendix A to this section.

FTA means the Federal Transit Administration.

Grantee means any entity that is a recipient of FTA funds.

Manufactured product means an item produced as a result of the manufacturing process.

Manufacturing process means the application of processes to alter the form or function of materials or of elements of the product in a manner adding value and transforming those materials or elements so that they represent a new end product functionally different from that which would result from mere assembly of the elements or materials.

Negotiated procurement means a contract awarded using other than sealed bidding procedures.

Rolling stock means transit vehicles such as buses, vans, cars, railcars, loco-

motives, trolley cars and buses, and ferry boats, as well as vehicles used for support services.

System means a machine, product, or device, or a combination of such equipment, consisting of individual components, whether separate or interconnected by piping, transmission devices, electrical cables or circuitry, or by other devices, which are intended to contribute together to a clearly defined function. Factors to consider in determining whether a system constitutes an end product include: Whether performance warranties apply to an integrated system (regardless of whether components are separately warranted); whether products perform on an integrated basis with other products in a system, or are operated independently of associated products in the system; or whether transit agencies routinely procure a product separately (other than as replacement or spare parts).

United States means the several States, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the U.S. Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

APPENDIX A TO § 661.3—END PRODUCTS

The following is a list of representative end products that are subject to the requirements of Buy America. This list is representative, not exhaustive.

(1) *Rolling stock end products*: All individual items identified as rolling stock in § 661.3 (e.g., buses, vans, cars, railcars, locomotives, trolley cars and buses, ferry boats, as well as vehicles used for support services); train control, communication, and traction power equipment that meets the definition of end product at § 661.3 (e.g., a communication or traction power system, including manufactured bimetallic power rail).

(2) *Steel and iron end products*: Items made primarily of steel or iron such as structures, bridges, and track work, including running rail, contact rail, and turnouts.

(3) *Manufactured end products*: Infrastructure projects not made primarily of steel or iron, including structures (terminals, depots, garages, and bus shelters), ties and ballast; contact rail not made primarily of steel or iron; fare collection systems; computers; information systems; security systems; data processing systems; and mobile lifts, hoists, and elevators.

[72 FR 53696, Sept. 20, 2007, as amended at 74 FR 30239, June 25, 2009]