Procurement Manual'' in which FTA will discuss the benefits of using this process and include model contract clauses.

D. Bonding Requirements. FTA proposed two general bonding requirements. For construction or facility improvement contracts or subcontracts exceeding $100,000, a grantee could use its own bonding policy if approved by FTA. If not approved by FTA, the grantee would be required to obtain from contractors: (1) A bid guarantee equivalent to 5 percent of the bid price; (2) a performance bond for 100 percent of the contract price; and (3) a payment bond for 50 percent of the contract price for contracts less than $1 million, 40 percent of the contract price for contracts between $1 million and $5 million, and $2.5 million for contracts over $5 million. Although FTA did not propose specific requirements regarding the use of bonds in non-construction contracts, we discouraged their use.

The commenters who responded to this issue generally favored its adoption. Thus, in 4220.1C, FTA addresses construction or facility improvement contracts or subcontracts exceeding $100,000. Whether a grantee requires bonds for non-construction contracts is a matter left to local discretion. Guidance on this subject may be included in the ''Third Party Procurement Manual.''

E. Options. Although only one grantee commented on the proposal regarding the use of options, we are aware that this is a controversial issue. Instead of adopting this proposal, 4220.1C provides that if a grantee chooses to use options, three requirements apply: (1) the option must have been evaluated as part of the contract award (otherwise it is a sole source procurement); (2) the option must be exercised in accordance with contractual terms and conditions at the time the contract is awarded; and (3) at the time it is exercised, the option price must be determined to be the most advantageous for the grantee. Moreover, FTA has removed the restriction that an option may not be greater than 50 percent of the base line item quantity. The discretion to determine option quantities will now reside with the grantee.

F. Bid Protest Procedures. FTA will continue to review protests alleging that a grantee failed to have written bid protest procedures or to follow them. Grantee protest decisions must be in writing; protests to FTA must be in writing and submitted within five working days of the date the protester knew or should have known of the violation. All other information which describes the process FTA will follow in reviewing bid protests has been removed for reissuance, as appropriate, in the ''Third Party Procurement Manual.''

G. Payment Provisions. Although FTA received only two comments concerning the provisions addressing advance and progress payments, FTA has decided to make the following changes. Under Circular 4220.1C, advance payments may now be used if prior written concurrenceis received from FTA. Progress payments may also be used as long as the grantee obtains title to the property being constructed or acquired or an equivalent security equal in value to the progress payment amount. The use of progress payments is at the grantee's discretion.

H. Small Purchase Threshold. FTA did not propose raising the small purchase dollar threshold because we were aware at the time that the Office of Management and Budget (OMB) was considering such a change. In the interim, the common grant rules have been changed to increase the threshold. The Circular has been revised accordingly, and grantees may raise their small purchase threshold to $100,000 if they wish.

I. General Services Administration (GSA) Federal Supply Schedule (FSS). Although the proposal did not contain any provision regarding the use of the FSS in procuring goods, FTA recipients have repeatedly requested permission to use it. FTA supports this request and notes that as soon as GSA has established the requisite procedures, eligible grantees will be able to use them.

J. Operating Assistance. FTA had proposed to continue to require recipients of operating assistance to apply the Circular to all operating procurements. All but one commenter opposed the proposal. Due to the complexity of the legal and policy issues surrounding this particular requirement, no change has been made. FTA does intend, however, to continue to study the issue to determine what, if any, changes can be made consistent with the principles of Federalism and the National Performance Review.

K. Commercial Services. FTA proposed a specific provision applicable to the purchase of ''commercial services'' for the provision of transit, maintenance, or management services. Commenters responding to this proposal were uniformly opposed. One commenter, for example, wrote that ''[t]he essential 'make or buy' question—that is inherent to any sound procurement process—by definition applies to both goods and services.''

We agree with the commenters; a separate provision on the procurement of ''commercial services'' is inappropriate and unnecessary, since such procurements are covered by section 8 of Circular 4220.1C entitled ''Competition,'' which requires that ''all procurement transactions . . . be conducted in a manner providing full and open competition.''

L. Attachment A. FTA proposed to identify and list all of the statutes and regulations that address third party contracting issues. Instead of adopting this proposal, however, FTA decided that recipients should be referred to the ''Master Agreement,'' which contains a comprehensive list of the requirements applicable to the FTA program, including procurement. Unlike the Circulars, the ''Master Agreement'' is updated annually. Moreover, as mentioned above, FTA is developing a ''Third Party Procurement Manual'' which will give FTA recipients detailed guidance on the applicability of various statutes and regulations addressing third party contracting matters.

M. The Use of the Metric System. In our proposal, FTA ''encouraged [grantees] to begin using the metric system of measurement * * * at the earliest possible date in their procurements and other business activities.'' Although grantees would be merely encouraged to use the metric system, the commenters were adamantly opposed. Given FTA's decision to focus on contracting requirements, this provision is not included in Circular 4220.1C. FTA notes, however, that 49 U.S.C. sections 205a *et seq.*, E.O. 12770, ''Metric Usage in Federal Government Programs,'' 15 U.S.C. section 205a, and the ''Master Agreement'' require the use of the metric system by 1997. FTA recipients should note, however, that the use of the metric system is not required in every instance; 49 CFR 19.44(a)(3)(v) exempts its use when not ''practicable and economically feasible.''

N. Architectural and Engineering Contracts. Although FTA has reworded the provisions concerning the requirements for architectural and engineering contracts, the basic requirements have not been changed.

Issued: October 10, 1995.

Gordon J. Linton,

Administrator.

[FR Doc. 95–25407 Filed 10–12–95; 8:45am]

BILLING CODE 4910–57–U

National Highway Traffic Safety Administration

[Docket No. 93–37; Notice 3]

Panoz Auto Development Company, Receipt of Application for Renewal of Temporary Exemption From Federal Motor Vehicle Safety Standard No. 208

Panoz Auto Development Company of Hoschton, Ga., has applied for a renewal of its exemption from paragraph S4.1.4 of Federal Motor Vehicle Safety Standard No. 208 *Occupant Crash Protection*. The basis of the application is that compliance will cause substantial economic hardship to a manufacturer that has tried to comply with the standard in good faith.

This notice of receipt of an application is published in accordance with the requirements of 49 U.S.C. 30113(b)(2) and does not represent any judgment of the agency on the merits of the application.

Panoz received NHTSA Exemption No. 93–5 from S4.1.4 of Standard No. 208, which was scheduled to expire August 1, 1995 (58 FR 43007). However, its application for renewal was filed on May 26, 1995, which was more than 60 days before the scheduled expiration date of its exemption. In accordance with 49 CFR 555.8(e), Panoz' filing of its application before the 60th day stays the expiration until the Administrator grants or denies the application for renewal.

Panoz's original exemption was granted pursuant to the representation that its Roadster would be equipped with a Ford-supplied driver and passenger airbag system, and would comply with Standard No. 208 by April 5, 1995 after estimated expenditures of $472,000. As of April 1993, the company had expended 750 man hours and $15,000 on the project.

According to its application for renewal,

> Panoz has continued the process of researching and developing the installation of a driver and passenger side airbag system on the Roadster since the original exemption petition was submitted to NHTSA on April 5, 1993. To date, an estimated 1680 man-hours and approximately $50,400 have been spent on this project.

Panoz uses a 5.0L Ford Mustang GT engine and five speed manual transmission in its car. Because ''the 1995 model year and associated emission components were revised by Ford'', this caused

> a delay in the implementation of the airbag system on the Roadster due to further research and development time requirements and expenditure of additional monies to evaluate the effects of these changes on the airbag adaptation program.

In addition, the applicant recently learned that Ford will be replacing the 5.0L engine and emission control system on the 1996 Mustang and other passenger cars with a modular 4.6L engine and associated emission components. The 1995 system does not meet 1996 On-Board Diagnostic emission control requirements, and Panoz will have to use the 1996 engine and emission control system in its cars. The majority of the money and man hours to date have been spent on adapting an airbag system to the 5.0L engine car, and the applicant is now concentrating on adapting it to a 4.6L engine car. Panoz lists eight types of modifications and testing necessary for compliance that would cost it $337,000 if compliance were required at the end of a one-year period. It has asked for a two-year renewal of its exemption.

Panoz sold 13 cars in 1993 and 13 more in 1994. It did not state its sales to date in 1995. At the time of its original petition, its cumulative net losses since incorporation in 1989 were $1,265,176. It lost an additional $249,478 in 1993 and $169,713 in 1994.

The applicant reiterates its original arguments that an exemption would be in the public interest and consistent with the objectives of traffic safety. Specifically, the Roadster is built in the United States and uses 100 percent U.S. components, bought from Ford and approximately 75 other companies. It provides full time employment for 7 persons, and ''at least 200 employees from over 80 different companies remain involved in the Panoz project.'' The Roadster is said to ''provide the public with a classic alternative to current production vehicles.'' It is the only vehicle that incorporates ''molded aluminum body panels for the entire car'', a process which is being evaluated by other manufacturers and which ''results in the reduction of overall vehicle weight, improved fuel efficiency, and increased body strength.'' With the exception of S4.1.4 of Standard No. 208, the Roadster meets all other Federal motor vehicle safety standards including the 1997 side impact provisions of Standard No. 214.

Interested persons are invited to submit comments on the application described above. Comments should refer to the docket number and the notice number, and be submitted to: Docket Section, National Highway Traffic Safety Administration, room 5109, 400 Seventh Street, SW., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the application will be published in the Federal Register pursuant to the authority indicated below.

Comment closing date: November 13, 1995.

(49 U.S.C. 30113; delegations of authority at 49 CFR 1.50. and 501.8)

Issued on October 6, 1995.

Barry Felrice,

Associate Administrator for Safety Performance Standards.

[FR Doc. 95–25406 Filed 10–12–95; 8:45 am]

BILLING CODE 4910–59–P