



OHIO DEPARTMENT OF TRANSPORTATION

CENTRAL OFFICE • 1980 WEST BROAD STREET • COLUMBUS, OH 43223
JOHN R. KASICH, GOVERNOR • JERRY WRAY, DIRECTOR

November 1, 2018

Ms. Laura S. Leffler, Division Administrator
Federal Highway Administration - Ohio Division
200 North High Street, Room 328
Columbus, Ohio 43215

RE: Statement of Interest - New Special Experimental Project (SEP-16) to Evaluate Proposals for Delegation of Certain Program-wide FHWA Responsibilities to States

Buy America Waivers

Dear Ms. Leffler:

In accordance with 23 U.S.C 101, the Ohio Department of Transportation (ODOT) hereby notifies the Federal Highway Administration (FHWA) of our interest in participating in the New Experimental Project (SEP-16) to Evaluate Proposals for Delegation of Certain Program-wide FHWA responsibilities to States. This project, announced by FHWA on September 19, 2018, document number 2018-20347, is to test and evaluate the delegation of program-level responsibilities of the Federal-Aid Highway Program (FAHP) to States, including the appropriate steps States should take to request to exercise delegated authority.

Summary of Proposal

ODOT proposes to seek authority under 23 CFR §635.410(c) to issue and assume responsibility for complying with the Buy America waiver requirements in 23 CFR §635.410(c)(1).

The Department would post requests for waivers to the public. The Department would consider all appropriate factors including costs, administrative burden and delays if the provisions were not waived. The Department would publish a listing of waiver requests approved, withdrawn or denied consistent with the current listing on FHWA's website.

Reasoning for Proposal

FHWA's Buy America waiver process is well documented and understood. The process that FHWA uses can be duplicated at the state level and still be based upon public interest or the availability of domestic products. In the past year, obtaining formal approval from FHWA on Buy America waivers has been difficult. Political machinations in Washington, D.C. have prevented any DOT from obtaining a project-specific waiver.

Specifically, ODOT currently has two structure projects that require non-domestic steel to repair or replace existing components. The structures will eventually become deficient and closed. Vehicular or maritime traffic will be detoured or obstructed.

Anticipated Resulting Improvement to ODOT's Project Delivery

ODOT would save time obtaining waivers for non-domestic steel. Projects would not be held, suspended or terminated while waiting for a waiver. Structures will be promptly repaired and open to traffic.

Experience with Project-Level Delegation

ODOT has the authority to process a non-domestic steel waiver if the cost of such materials used does not exceed one-tenth of one percent (0.1 percent) of the total contract cost or \$2,500, whichever is greater. ODOT's Division of Construction Management keeps FHWA Ohio Division informed of these waiver requests. ODOT has worked with FHWA Ohio in prior years to support changes to Buy America that would allow exceptions for commercially available off-the-shelf products and steel tie wire. Additionally, since being accepted into the FHWA NEPA Assignment Program, ODOT has successfully completed three audits. ODOT and FHWA have a long history of working together collaboratively to expedite the environmental process for transportation projects in Ohio and we have continued that tradition with this project. The success of the NEPA Assignment Program in Ohio has been accomplished by building efficiency and consistency into the process while ensuring the required level of protection and accountability for environmental resources is maintained. ODOT and FHWA will continue this partnership to ensure the success of the NEPA Assignment Program moving forward and would follow this same practice if accepted for participation in the SEP-16 project.

ODOT looks forward to working closely with FHWA during the application process for this exciting experimental project.

Respectfully,

A handwritten signature in blue ink that reads "Jerry Wray" followed by a stylized flourish.

Jerry Wray, Director

Copies - Director, L. Macadam, J. Townley, T. Hill