

BUY AMERICA

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2012 ANNUAL MEETING



New Car Procurement Project Timeline

- Development of Technical Specifications – 2005 - 2008
- Request for Proposals Released – September 2009
- Initial Car Builder Proposals Received – June 2011
- California Legislation Allowing for Buy America Credit
 - Passed in October 2011
 - Became law January 1, 2012
- Release of BAFO – November 2011
(included Buy America Preference)
- Best and Final Offers Received – February 2012
- Award of Contract – May 2012



New Car Procurement Goals

1. To provide the best quality rolling stock at a fair and reasonable price
2. Maximize US content without jeopardizing the project
3. Procure 775 cars – structured to support funding strategy



Getting to “Buy America”

Desire:

- Ability to credit car builders for US content
- Create US jobs

Challenges:

- Federal regulation prevents agencies from giving a bidding preference for US content above the FTA required 60%
- Unless there is a specific state statute authorizing such a preference
 - California did not have such a statute
 - BART sponsored AB1097



Buy America Timing

State law passed as BART prepared to release BAFO

- Incorporation of a Buy America preference at late stage created the potential to jeopardize the entire process
 - Two car builders had been dropped during short listing
 - Three remaining car builders could claim “cardinal” change which negatively impacted them



Buy America Implementation Strategy

Make it real, yet tempered

- Enough incentive to get car builders to do everything they could to increase US content
- Not so much that car builders would take unreasonable risk

Market Driven

- Leave enough room for car builders to make business decisions about US content vs. price
- Tie preference to price (for evaluation purposes only)




Application of Price Formula at BAFO

- For each percentage point above 60%, Proposer earned 0.25% reduction to their price for evaluation purposes only
- Maximum possible reduction = 10%
(40% X 0.25)
- Actual US content confirmed by independent third party audit prior to recommendation for award



Buy America Results

- Winning Proposer provided 66% US content – receiving 1.5% relief on price for evaluation purposes
 - Second ranked proposer provided 95% US content – receiving 8.75% relief on price for evaluation purposes
 - Winning Proposer's price was lower than the second ranked proposer even after application of preference
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Outcome

- Award price for all 775 vehicles - \$1,543,192,900
- Award price was \$183,832,285 lower than second lowest offer
- Allowed District to award Base Contract (260 vehicles) and Option 1 (150 vehicles) for total of 410 vehicles within existing available funding



SUMMARY

Implementation of a Buy America preference was very difficult and risky

- Mitigate the potential legal risk introduced by the fact that we implemented at the BAFO stage
- Ensure that FTA would support incorporation of the preference
- Strike the right balance of incentivizing car builders without pushing them to take unreasonable technical risk
- Allow room for marketplace factors

