

Rolling Stock Buy America Pre-Award & Post-Delivery Audits: Are You Ready?

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Background Experience



DM2US clients include BART, Sound Transit, Alexander Dennis, Bombardier, Brookeville Equipment, CAF, Diamond Coach, EPV Corp., Kinkisharyo, MTS, Siemens, Stadler Rail, Talgo, TTI, Vossloh España, Vossloh Kiepe, ABB, Alstom TLS, Faiveley, Knorr, Luminator, Mersen, Norgren Americas, Penn Machine, Samsung, Testori, Wabtec, Advanced Transit Manufacturing, Lin Industries

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Be Proactive to Auditors



- **Contact** auditor ASAP after Intent to Award
- Understand auditor's documentation **expectations** (sample or all files)
- Send auditor as many **non-confidential** documents as possible **prior** to arrival
- Send **.pdf** spreadsheet in **% only** (*not* \$)

Welcome the Auditor



- **Notify** your **entire** team on auditor's visit
- Make Auditor's travel **access** easy
- Top management **welcomes** Auditor
- Reserve nice, large meeting room
- Request auditor's **beverage** preferences

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Organized, Accurate Data



- Build a spreadsheet of **all** Components adding up to **Total** Material Cost and Total **Domestic** Material Cost in **both** \$ and %
- Differentiate vehicle **types** (e.g., 40ft vs 60ft)
- Start with “Typical Components” – follow with **all** other Components (e.g., bathroom)
- Include Supplier name and **manufacturing** location

The Devil is in the Detail



- Gather external supplier **quotes**, historical **BOM** data or **P.O.s**
- Create, distribute and obtain **customized Component** Supplier Buy America **certificates**
- Gather material, labor & Man'g costs for TVM **internally-manufactured** Components
- Be **consistent** when “**marking up**” internally-manufactured Components

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Eliminate Scavenger Hunts



- Create individual Component **cover sheets** inc. **calculations** summing to overall vehicle spreadsheet
- If only specific quote/P.O. **cross-reference data** applies, **highlight** it (don't make auditor search)
- Highlight & calculate **foreign currency**

Capture Every USA Dollar



- **Break out** any misc. Component **> 0.5%**
Total Material Cost
- You **can't** “**round up**” misc. materials (e.g., metal fab, electrical, hardware, etc.)
- **Component freight** – roll it up as a **bonus**
- If you can't prove domestic content, then it's foreign

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TVM is in Auditor's Court

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- The lower your B.A. %, the higher the **auditor's scrutiny** – aim for **65%**
- You may need to show **proof of payment**
- **Burden** to “pass” is **on TVM** (not auditor)
- Accurate, organized documents = quicker, easier audit = Be prepared
- Get 'em in and Get 'em out

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APTA
EXPO
PUBLIC TRANSPORTATION'S
PREMIER SHOWCASE

Rolling Stock - End Product



End Product - Rail Car
\$1,500,000 Sell Price

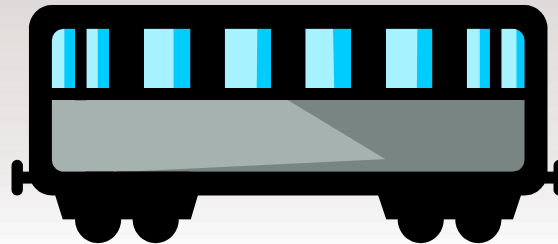


U.S. Final Assembly
and
> 60% U.S. Components

\$500,000
All non-Component
Costs (Labor, Engineering,
End freight, Management,
Overhead, Profit)

\$1,000,000 Component Costs
(all Materials)

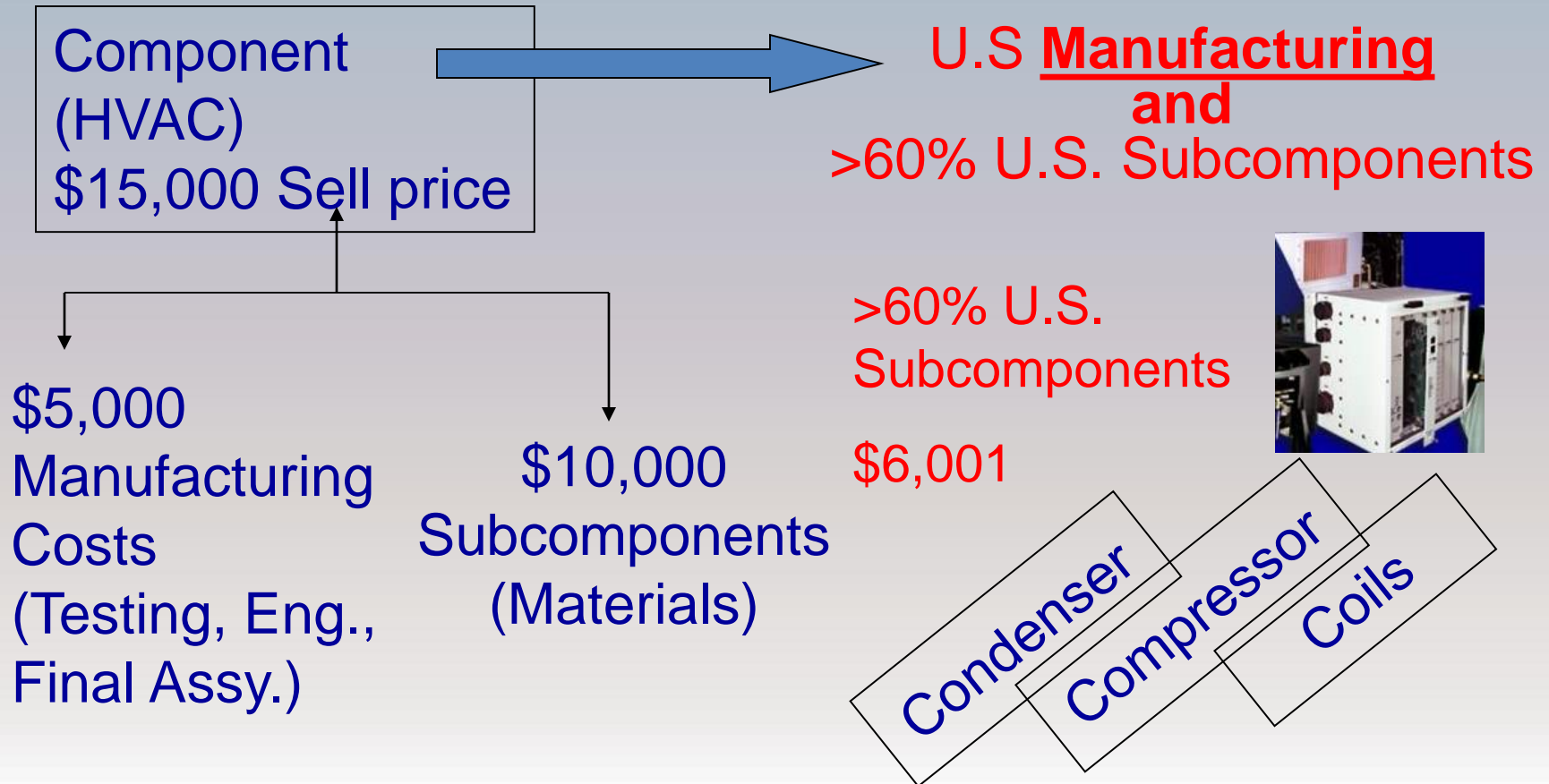
>60% U.S.
Components
(Materials)
>\$601,000



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Rolling Stock: Components



“Partial” Counting Value



661.11 (I) If a **Component** is manufactured in the **USA**, but contains less than 60% **domestic Subcomponents**, by cost, the cost of the domestic Subcomponents **and** the cost of **manufacturing the Component** **may** be included in the calculation of the domestic content of the **End Product** materials.

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Partial Credit



U.S Manufacturing
but less than
< 60% U.S. Subcomponents

Component
\$15,000

\$5,000 Manufacturing
Costs

\$10,000
Subcomponents

\$4,000 U.S.
Manufacturing

\$1,000 Foreign
Manufacturing

\$5,500 U.S.
Subcomponents

\$4,500 Foreign
Subcomponents

\$9,500 U.S. Manufacturing & Subcomponents
and
\$5,500 Foreign Manufacturing & Subcomponents

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Supplier Certificates

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In order for us to determine our overall Buy America content value on NYS DOT Contract # A1-B2, ABC-TVM requires you (“**Seller**”) to answer **both** Questions 1 and 2 listed below (and Question 3, if applicable) and sign below:

1. The cost of Seller’s **materials manufactured in the United States** and sold to ABC-TVM for Purchase Order # **98765** on NYS DOT Contract # A1-B2 **equals more than 60%** of the cost of Seller’s **total materials** for Purchase Order # **98765** on XYZ DOT Contract # A1-B2.
Yes _____ No _____
2. The **final product(s)** sold by Seller to ABC-TVM for Purchase Order # **98765** on NYS DOT Contract # A1-B2 **is/are manufactured in the United States**.
Yes _____ No _____
3. **If Seller answered “No” to either or both of the questions listed above**, Seller is **required** to list below the **sum total** of Seller’s U.S. materials and U.S. manufacturing costs of the Seller’s product(s) sold to ABC-TVM for Purchase Order # **98765** on NYS DOT Contract # A1-B2:
\$ USD _____.

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Component Spreadsheet

Vendor Name	ABC Air Conditioning Company, Inc.			<u>Supplier's Proprietary Column</u>
ABC TVM Purchase Order #	654321			
Vendor P.O. total price to ABC TVM			\$1,500	
Vendor USA Manufacturing site	Mayberry, NC			
Description of your end product sold to ABC TVM, Inc.	Heating & Air Conditioning Unit			
Description of Individual USA Supplier Material Items	Name of Individual USA Material Item Manufacturer	Individual Material Item USA Manufacturing Place of Origin	Individual Material Item Cost %	Individual Material Item Cost \$
Condensor	Smith Condensor Co.	Columbus, OH	18%	\$180
Compressor	Jones Compressors, Inc.	Pittsburgh, PA	10%	\$100
Coils	American Coil, LLC	Chicago, IL	28%	\$280
Wiring	USA Wiring, LLP	New York, NY	17%	\$170
Total USA Materials	(NOTE: Should exceed 65%)		73%	\$730
Other Materials	Various Vendors		27%	\$270
Total All Material	(should equal 100%)		100%	\$1,000
Seller's Contact Person's Name (please print or type)				
Seller's Signature			Date	

Protect Proprietary Data



11. What if the manufacturer is concerned about releasing proprietary information?

If the manufacturer is concerned about **releasing proprietary information**, the recipient may contract with an external consultant to conduct the manufacturer's Buy America certification review. After the consultant has reviewed the component and subcomponent documentation, the **consultant will inform the recipient whether or not the Buy America requirements have been fulfilled**. Once the recipient, or consultant, has reviewed the Buy America information, **the manufacturer has fulfilled the requirements** of the Buy America certification assuming that compliance has been established. **The manufacturer is not required to provide the recipient with hard copies of the Buy America calculations**. A manufacturer may require the external consultant to sign a proprietary information disclosure statement.

Protect Yourself



- **Changing** Pre-Award audit **suppliers'** Quotes to P.O.s issued throughout contract to Post Delivery audit
- Re-negotiate prices, Change Orders
- **Some** U.S. **suppliers** surprisingly **aren't** BAA compliant
- Auditors may **disallow** 1-3% during Pre- or Post- audits

Buy America Websites



- USDOT

<http://www.dot.gov/highlights/buyamerica>

- FTA

http://www.fta.dot.gov/legislation_law/12921.html

- eCFR 49 CFR Part 661

<http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&SID=05b2e11ee01c6d5016c00e6833287d08&rgn=div5&view=text&node=49:7.1.2.1.18&idno=49>

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FTA Buy America Links



- Waivers & Decision Letters

http://www.fta.dot.gov/legislation_law/about_FTA_598.html

- 1995 Handbook – Bus

http://www.fta.dot.gov/legislation_law/12921_5423.html

- 1995 Handbook – Rail

http://www.fta.dot.gov/legislation_law/12921_5424.html

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Questions?



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