

INSTRUCTION LETTER

INSTRUCTION NUMBER: 17-03 **WIOA**

TO: All Grantees

SUBJECT: Buy American Notice Requirement

DATE ISSUED: October 5, 2017 **DATE EFFECTIVE:** Immediately **DATE EXPIRES:** Indefinitely

BACKGROUND: In November 2016, the South Carolina Department of Education and Workforce issued a Buy American Notice Requirement as part of its Grant Terms and Conditions.

PURPOSE: To educate and prepare all SC Works Greater Upstate center staff and partners to be compliant with the Buy American Notice Requirement under the November 2016 Grant Terms and Conditions issued by the South Carolina Department of Education and Workforce.

POLICY: All SC Works Upstate center staff, including partners, must comply with Section 3.7.1 of the Buy American Notice Requirement issued in November 2016 as part of the Grant Terms and Conditions which reads as follows:

As a condition to the award of financial assistance from the US Department of Labor under Title I of WIOA, the Grantee assures that it will comply fully with the following nondiscrimination provisions, equal opportunity provisions, Public Laws and Executive Orders, including, but not limited to:

Q. Buy American Notice Requirement, which provides that in the case of any equipment or product that may be authorized to be purchased with financial assistance provided using funds available under WIOA, entities receiving the assistance should, in expending the assistance, purchase only American-made equipment and products, as required by the Buy American Act (41 U.S.C. §10a et. seq.)

According to WIOA – Under Title V – General Provisions, Subtitle A – Workforce Investment:

SEC. 502. BUY AMERICAN REQUIREMENTS.

- (a) COMPLIANCE WITH BUY AMERICAN ACT. – None of the funds available under Title I or II or under the Wagner Peyser Act (29 U.S.C. 49 et seq.) may be expended by an entity unless the

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entity agrees that in expending the funds the entity will comply with sections 8301 through 8303 of Title 41, United States Code (commonly known as the “Buy American Act”).

(b) SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE.—

(1) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS. —In the case of any equipment or product that may be authorized to be purchased with financial assistance provided using funds made available under Title I or Title II or under the Wagner-Peyser Act (29 U.S.C. 49 et seq.), it is the sense of Congress that entities receiving the assistance should, in expending the assistance, purchase only American-made equipment and products.

(2) NOTICE TO RECIPIENTS OF ASSISTANCE. —In providing financial assistance using funds made available under Title I or II or under the Wagner-Peyser Act, the head of each Federal agency shall provide to each recipient of the assistance a notice describing the statement made in paragraph (1) by Congress.

(c) PROHIBITION OF CONTRACTS WITH PERSONS FALSELY LABELING PRODUCTS AS MADE IN AMERICA.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a “Made in America” inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available under Title I or II or under the Wagner-Peyser Act (29 U.S.C. 49 et seq.), pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of Title 48, Code of Federal Regulations, as such sections were in effect on August 7, 1998, or pursuant to any successor regulations.

41 U.S.C. states in:

§10a. American materials required for public use

(a) In general

Notwithstanding any other provision of law, and unless the head of the department or independent establishment concerned shall determine it to be consistent with the public interest, or the cost to be unreasonable, only such unmanufactured articles, materials, and supplies as have been mined or produced in the United States, and only such manufactured articles, materials, and supplies as have been manufactured in the United States substantially all from articles, materials, or supplies mined, produced, or manufactured, as the case may be, in the United States, shall be acquired for public use. This section shall not apply with respect to articles, materials, or supplies for use outside the United States, or if articles, materials, or supplies of the class or kind to be used or the articles, materials, or supplies from which they are manufactured are not mined, produced, or manufactured, as the case may be, in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality. This section shall not apply to manufactured articles, materials, or supplies procured under any contract the award value of which is less than or equal to the micro-purchase threshold under section 428 of this title.

Section 428 (a) 2.f defines the micro-purchase threshold as \$2,500

Every effort must be made to purchase American-made products from qualified suppliers and the managers of SC Works Greater Upstate and its partners shall abide by the state requirements of the Buy American Act.

ACTION: All SC Works Greater Upstate center managers shall provide this Buy American Notice Requirement to all current staff and partners, and ensure that staff and partners comply with this requirement. Managers shall also make this requirement information available to all new staff and partners.

INQUIRIES: Should you have any questions concerning this instruction, please contact Dana Wood at (864) 596-2028 (TTY: 711 or wood@upstateworkforceboard.org).



Ann Angermeier, Director

Source: Buy American Act (41 U.S.C. §10a et. seq.), (48 U.S.C., Sections 9.400 through 9.409), Wagner Peyser Act (29 U.S.C. 49 et. seq.), and Section 3.7.1 of the Buy American Notice Requirement in the SCDEW November 2016 Grant Terms and Conditions.