

**INTERAGENCY AGREEMENT**  
BETWEEN  
**U.S. DEPARTMENT OF TRANSPORTATION**  
**FEDERAL TRANSIT ADMINISTRATION**  
AND  
**U.S. DEPARTMENT OF COMMERCE**  
**NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY**

**1. PARTIES AND PURPOSE**

This Interagency Agreement (IAA) establishes an agreement between the U.S. Department of Transportation (DOT) Federal Transit Administration (FTA) and the U.S. Department of Commerce (DOC) National Institute of Standards and Technology (NIST) for the identification and development of a domestic supply base for public transit in the United States.

The emphasis of this IAA is the leverage by FTA of various forms of assistance from the NIST Manufacturing Extension Partnership (MEP) to maximize nationwide compliance with Buy America provisions associated with FTA funded commuter rail (including regional and high speed), heavy rail (including subways and metros), light rail (including rapid, streetcar, interurban (operating on the general freight railroads), trolleys and circulators), and bus (including express coach, rapid, local, and circulators). Specific tasking to be conducted as part of this IAA is detailed in the included Statement of Work (SOW).

**2. BACKGROUND AND GOALS**

Pursuant to the series of interactions that have been ongoing since 2010 between officials from the DOT and the DOC, and referencing a Memorandum of Agreement (MOA) between these two agencies that was executed in October 2011, this IAA sets forth an FTA-NIST interagency collaboration. The focus of this collaboration is the identification and development of a domestic supply base to support public transit in the U.S., specifically, in conjunction with the implementation of domestic buying preference requirements and grant programs operating in the DOT FTA.

Consistent with the NIST MEP mission of assisting U.S. manufacturers in strategically implementing business growth initiatives that enhance their competitiveness, NIST-MEP has conducted a number of Supplier Scouting pilot projects over the past several years in conjunction with other government agencies and original equipment manufacturers (OEMs). In these Supplier Scouting pilots, NIST-MEP has sought to identify U.S. manufacturers that were capable of satisfying Buy American and Buy America requirements.

## **Interagency Agreement Between FTA and NIST, continued,**

Under the auspices of this IAA, NIST MEP will conduct a series of Supplier Scouting pilots to help FTA ensure compliance with applicable domestic buying preference provisions, including, but not limited to the Administration's and the FTA Administrator's Buy America and domestic buying preference requirements. NIST MEP will also engage in efforts associated with U.S. manufacturer outreach, awareness, and technical assistance relating to supply chain opportunities associated with our nation's transit systems. In conjunction with these efforts, NIST MEP will help facilitate the development of a robust domestic supply base for public transit in the U.S.

It is understood that in the conduct of IAA tasking, NIST shall engage its nationwide network of MEP Centers to perform Supplier Scouting analyses. In addition, NIST MEP shall engage its nationwide network of MEP Centers to leverage their significant base of capabilities, services, and approaches for assisting U.S. manufacturers. The MEP Centers shall be engaged by NIST via available and appropriate financial transfer and assistance mechanisms.

### **3. AUTHORITY**

The authorities for NIST MEP and DOT FTA to enter into this agreement are:

NIST: 15 U.S.C. §§ 272(b)(1), 272(b) (11), and 278k.

DOT: 49 U.S.C. § 103.

TRANSFER AUTHORITY: NIST Working Capital Fund- 15 U.S.C. §§ 273, 275a & 278b

### **4. TERMS AND CONDITIONS**

- (A) NIST will provide the goods and services as provided in the Statement of Work below (Section 4(D) of this IAA) at the request of FTA on an as-needed basis.
- (B) DOT FTA will transfer \$265,000 to NIST as reimbursement for the goods or services contemplated by this agreement. NIST will be reimbursed for all services rendered and costs incurred. This transfer will be made in advance. FTA may transfer an additional \$235,000 to NIST as reimbursement for additional goods and services pursuant to a subsequent amendment to this agreement and based upon the availability of appropriated funding. Additional budget details are provided later in this section.
- (C) NIST MEP shall engage its MEP Centers to leverage their significant base of capabilities, services, and approaches for assisting U.S. manufacturers as further provided in the Statement of Work below. As stated previously in this IAA, the MEP Centers shall be engaged by NIST via available and appropriate financial transfer and assistance mechanisms.

## **Interagency Agreement Between FTA and NIST, continued,**

(D) The **Statement of Work** to be undertaken and deliverables to be provided by NIST MEP in this pilot and under this agreement between DOT FTA and NIST MEP are described below. Prior to awarding FTA funding for public transit projects across the nation, FTA is proactively seeking to create awareness of potential public transit supplier opportunities. The objective is to maximize compliance and minimize waiver requests to the DOT seeking an exemption of the Buy America provisions associated with the project awards based upon the “nonavailability” exception to the provisions which claim that the iron, steel, or relevant manufactured good is not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality.

The IAA tasking that NIST will undertake is intended to assist the FTA in these specific tasks:

- Review of lists established by an FTA survey of items bus and railcar builders believe to be domestically unavailable.
  - Capture of the specifications and performance requirements for unavailable items.
  - Development, recommendation, and planning of approaches for identifying, qualifying and engaging U.S. suppliers by bus and railcar builders.
  - Identification of potential U.S. suppliers for hard to source components, subassemblies, assemblies, and systems.
  - Identification of potential U.S. suppliers from non-traditional public transit railcar and bus suppliers.
  - Facilitation of outreach to potential suppliers and communication of requirements and capabilities needed as well as making the connection between bus and railcar builders and potential suppliers.
- 1) DOT FTA will present to NIST MEP the relevant technical information associated with its requests for MEP to conduct Supplier Scouting for the manufactured goods it needs in conjunction with FTA programs, with a focus on items identified to the FTA by FTA recipients, bus, railcar, or locomotive manufacturers, which they believe are difficult or impossible to source in the United States. This may include manufactured goods contained in waiver requests that FTA receives from relevant project awardees requesting exemptions to Buy America provisions. No proprietary third-party information will be shared with NIST under this agreement.
- The information sent to NIST MEP from FTA will include relevant technical and business information about subject items, and this information will be sent in a format prescribed by NIST. This format will allow NIST MEP to create an Item Opportunity Synopsis for each item that will be used as the basis for MEP Supplier Scouting.

## **Interagency Agreement Between FTA and NIST, continued,**

- 2) Upon receipt of the subject items from FTA, NIST MEP will communicate the Item Opportunity Synopses to the MEP Centers to begin a Supplier Scouting process for each instance. MEP Supplier Scouting will target the identification of relevant U.S. manufacturing capabilities and capacities that could potentially produce the specific items being sought.
- 3) The MEP Supplier Scouting approach will include engaging appropriate MEP Centers and using their knowledge of local manufacturer capabilities to identify potential U.S. manufacturers who either currently or could potentially produce the items being sought.
  - NIST MEP will deploy one of two different processes in its approach to the conduct of Supplier Scouting for DOT FTA: (1) One approach will ensure that the Supplier Scouting opportunity is communicated to all 50 states and Puerto Rico, and active MEP Supplier Scouting occurs in all 50 states and Puerto Rico; or (2) The second approach will ensure that the Supplier Scouting opportunity is communicated to all 50 states and Puerto Rico, but active MEP Supplier Scouting may not occur in all 50 states and Puerto Rico.
  - FTA will designate which Supplier Scouting approach should be deployed by MEP for each particular instance. This designation will be made by FTA when item specifications are communicated to NIST as part of the initial request for Supplier Scouting for each item.
  - All MEP Centers will be invited to participate in the conduct of these Supplier Scouting analyses regardless of the approach utilized, and will have the opportunity to receive funding for their efforts from NIST MEP via appropriate and available financial assistance mechanisms. If the second approach, stated above, is utilized, FTA may limit the participation of MEP Centers and the number of MEP Centers participating in active MEP Supplier Scouting, including the amount of funding that will be expended on a particular search.
- 4) MEP Supplier Scouting activities will be conducted for an initial set of 15 related groups of items, and will use one of the two approaches described in 3) above to identify and preliminarily vet prospective commuter rail, heavy rail, light rail, and bus suppliers in pre-award situations and in situations where there is a formal Buy America waiver request.

## **Interagency Agreement Between FTA and NIST, continued,**

- 5) NIST MEP will present to DOT FTA a written report documenting the results of its Supplier Scouting processes for each particular instance in a timely manner, within 30 days after a complete request, as outlined in § 4(D)1 above, is made by FTA. If longer than 30 days are required for NIST MEP to present FTA a report, NIST MEP will provide FTA with appropriate notification explaining any delays.
  - MEP Supplier Scouting results will include the appropriate technical and business information about the identified U.S. manufacturers.
  - MEP Supplier Scouting results will clearly articulate for each instance any number of three possible scenarios: (1) when an identified manufacturer represents an exact match – i.e., the identified manufacturer currently produces the exact item being sought; (2) when an identified manufacturer represents a partial match – i.e., the identified manufacturer makes a similar product to the item being sought, or has relevant capabilities to produce the item being sought, or has produced the item being sought in the past, and could produce it again; or (3) when no manufacturers were identified as either exact or partial matches.
- 6) NIST will provide MEP Supplier Scouting services at the request of the DOT FTA on an as-needed basis to determine the existence of available manufacturers in the U.S. to produce the various goods, steel and iron products, components, subassemblies, assemblies, and systems required in conjunction with relevant FTA programs and investments. NIST will provide MEP Supplier Scouting services until funding is expended, or the duration of this IAA expires – whichever occurs first. If funding is unexpended after the conduct of the initial set of 15 Supplier Scouting instances, NIST will provide an appropriate number of additional Supplier Scouting services as requested by DOT FTA and as commensurate with the available remaining funding.
- 7) NIST MEP will also conduct a series of Supply Chain connectivity and outreach efforts, including convening two Supply Chain Connectivity Forums focused on commuter rail, heavy rail, light rail, and bus supply chains to attract traditional and non-traditional suppliers to facilitate the connection of Original Equipment Manufacturers (OEM) with a broader supply base. The dates and locations of these Supply Chain Connectivity Forums will be jointly determined by DOT FTA and NIST MEP within the first 30 days after execution of this IAA.

**Interagency Agreement Between FTA and NIST, continued,**

- (E) This Agreement will become effective upon the date of the last signature set forth below and remain in force and effect until September 25, 2014 (or two years from date of award, whichever is later).
- (F) NIST will communicate quarterly with the DOT FTA about funding expenditures and provide detailed progress reports, which include sufficient documentation for the services NIST has rendered and the goods NIST has provided.
- (G) The budget for the tasking in this IAA will be allocated as follows:
- \$150,000 - Create, manage and conduct nationwide MEP Supplier Scouting effort that employs either of the two search approaches described in the Statement of Work above (Section 4(D)) to find interested and capable U.S. suppliers for commuter rail, heavy rail, light rail and bus related groups of items with the goal to find as many U.S. suppliers as possible within a prescribed period of time.
  - \$75,000 - Engage MEP centers to develop and implement supplier awareness activities and carry out two on-site Supply Chain Connectivity Forums for commuter rail, heavy rail, light rail and bus at locations to be determined jointly by the FTA and NIST MEP that bring together target representatives from OEMs and potential suppliers with the option for two web-based national Supply Chain Connectivity Forums for commuter rail, heavy rail, light rail and bus events to take place in 2013.
  - \$40,000 - for NIST MEP direction and management of the nationwide scouting processes which includes aggregated reports for each scouting instance on the domestic capabilities/capacity supplier findings with recommendations on how to move forward to fill specific gaps to support commuter rail, heavy rail, light rail and bus domestic equipment and infrastructure production.
- (H) NIST will present a proposed Task Implementation Plan to the FTA for review and approval within 45 days of the initiation of the task. The results of each of the assigned tasks will be delivered in the form of a briefing and a letter report documenting the task, the approach taken, the results, and any conclusions or recommendations developed, including recommended adjustments to future planned tasks.

**Interagency Agreement Between FTA and NIST, continued,**

**5. TERMINATION AND CANCELLATION CLAUSE**

- (A) The terms of this agreement will remain in effect until terminated by (1) mutual agreement of the parties; (2) thirty (30) days advanced written notice by either party; or (3) completion of the operation/terms of this agreement; whichever shall first occur.
- (B) Termination of this Agreement will not affect the completion of any projects or activities that are ongoing at the time one party provides written notice to the other party of their intent to terminate, but under no circumstance will a project or activity extend beyond termination of this agreement.
- (C) If DOT terminates the agreement, NIST is authorized to collect costs incurred prior to cancellation of the agreement plus any termination costs, up to the total value of the agreement. Any funds not expended or obligated to an ongoing project at the time notice of termination is given shall be returned to FTA.
- (D) Termination costs claimed shall not exceed the actual costs incurred as a result of the termination of the project.
- (E) This Agreement may be amended at any time by mutual consent of both parties. Amendments shall be executed in writing and signed by both parties. This Agreement will be reviewed periodically, but not less than annually. It may be subject to reconsideration at such other times as may be required and as agreed to by the parties entering into the agreement.

**6. RESOLUTION OF DISAGREEMENTS**

- (A) Should disagreements arise on the interpretation of the provisions of this agreement or amendments and/or revisions thereto, that cannot be resolved at the operating level, the area(s) of disagreement shall be stated in writing by each party and presented to the other party for consideration. If agreement on interpretation is not reached within 30 days, the parties shall forward the written presentation of the disagreement to respective higher officials for appropriate resolution.
- (B) If a dispute related to funding remains unresolved for more than 30 calendar days after the parties have engaged in an escalation of the dispute, disputes will be resolved in accordance with instructions provided in the Treasury Financial Manual (TFM) Volume I, Part 2, Chapter 4700, Appendix 10, which is currently available at <http://fms.treas.gov/tfm/vol1/v1p2c470.pdf>.

**Interagency Agreement Between FTA and NIST, continued,**

**7. OTHER PROVISIONS**

- (A) Nothing herein is intended to conflict with current DOT or DOC directives, regulations or laws. If the terms of this agreement are inconsistent with existing directives, regulations or laws then those portions of this agreement which are determined to be inconsistent shall be invalid; but the remaining terms and conditions of this agreement not affected by inconsistency shall remain in full force and effect. At the first opportunity for review of the agreement, such changes as are deemed necessary will be accomplished by either an amendment to this agreement or by entering into a new agreement, whichever is deemed expedient to the interest of both parties.
- (B) Nothing in this agreement shall be construed as obligating DOT, DOC, or the United States Government to the expenditure of funds or for the future payment of money in excess of that authorized by law.
- (C) Each party agrees that it will be responsible for its own acts and the results thereof and shall not be responsible for the acts of the other party and the results thereof.
- (D) Employees or agents of recipients working under a NIST financial assistance award issued pursuant to this IAA may perform work under this IAA. Rights to intellectual property developed by such persons are governed by the DOC Financial Assistance Standard Terms and Conditions (January 2013), Section L.04 ([http://www.osec.doc.gov/oam/grants\\_management/policy/documents/DOC\\_Standard\\_Terms\\_and\\_Conditions\\_01\\_10\\_2013.pdf](http://www.osec.doc.gov/oam/grants_management/policy/documents/DOC_Standard_Terms_and_Conditions_01_10_2013.pdf)). NIST expects that approximately \$200,000 will be transferred to recipients to support their employees or agents to perform incidental work under this agreement. The parties agree that should this estimate change, NIST will provide notice of this change in writing to FTA that may or may not require amendment to this IAA notwithstanding Section 5(E).
- (E) NIST contractors and their employees may perform work under this agreement. Intellectual property developed by such contractors/employees is governed by the FAR clauses contained in the NIST contract, which include the right of the contractor to elect to retain ownership of inventions under the Bayh-Dole Act (35 U.S.C. § 200 et seq.), and possible contractor ownership of data rights. NIST expects that approximately \$25,000 will be transferred to contractors to perform work under this agreement. The parties agree that should this estimate change, NIST will provide notice of this change in writing to FTA that may or may not require amendment to this IAA notwithstanding Section 5(E).



**Interagency Agreement Between FTA and NIST, continued,**

(F) Nothing in this agreement is intended to diminish or otherwise affect the authority of any agency to carry out its statutory, regulatory, or other official functions, nor is it intended to create any right or benefit, substantive or procedural, enforceable at law by any party against the United States, its agencies or officers, State agencies or officers carrying out programs authorized under Federal law, or any other person.

**8. ACCOUNTING DATA**

Agency Location Code (ALC):

[REDACTED]

Treasury Account Symbol (TAS)/Appropriation Code:

[REDACTED]

Business Event Type Code:

[REDACTED]

Business Partner Network (BPN) number/DUNS number:

[REDACTED]

Amounts will be deobligated to the extent that the servicing agency has not incurred obligations before the end of the period of availability of that appropriation.

**9. CONTACTS**

The NIST MEP contacts are:

Technical Point of Contact:

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**Interagency Agreement Between FTA and NIST, continued,**

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The DOT FTA contacts are:

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**Interagency Agreement Between FTA and NIST, continued,**


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The parties agree that if there is a change regarding the information in this section, the party making the change will notify the other party in writing of such change.

There is a Memorandum of Agreement (MOA) between DOC and DOT that this IAA falls under. That signed MOA is attached to this IAA.

  
Aimee Dobrzeniecki  
Deputy Director, MEP  
The National Institute of Standards and Technology  
U.S. Department of Commerce  
100 Bureau Drive, MS4800  
Gaithersburg, MD 20899

4/4/13  
Date

  
Peter M. Rogoff  
Administrator  
U.S. Department of Transportation  
Federal Transit Administration

JUL 16 2013  
Date

Attachment: MOA between DOC and DOT – dated October 17, 2011.