



U.S. Department
of Transportation

**Federal Transit
Administration**

Chief Counsel

1200 New Jersey Avenue, SE
Washington, DC 20590

The Honorable Lily Batchelder
Assistant Secretary for Tax Policy
Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

Dear Assistant Secretary Batchelder:

Thank you for your letter. I am replying on behalf of Administrator Fernandez. The Treasury Department (UST) has requested that the Federal Transit Administration (FTA) evaluate certain components of specified renewable energy projects to facilitate UST's implementation of the domestic content tax credit provisions of the Inflation Reduction Act ("IRA"). As UST has explained, those provisions require taxpayers to certify that any steel, iron, or manufactured product that is a component of the relevant facility or property was produced in the United States, "as determined under section 661 of title 49, Code of Federal Regulations." *See* 26 U.S.C. § 45(b)(9)(B)(i). In addition, in the case of steel or iron, this requirement must be applied in a manner "consistent with section 661.5 of title 49." 26 U.S.C. § 45(b)(9)(B)(ii). FTA administers part 661 of title 49, Code of Federal Regulations, which implements its Buy America statute (49 U.S.C. § 5323(j)).

FTA has analyzed the components of renewable energy projects identified by UST to determine whether the iron and steel domestic content requirement or the manufactured product domestic content requirement would apply under the FTA Buy America regulations. FTA used the same approach it has applied in prior FTA decisions. In conducting this analysis, which involves energy technologies that FTA would not ordinarily analyze under its regulations with respect to public transportation projects, FTA has relied on the expert technical assistance of the Department of Energy (DOE), particularly with respect to the function of components and the manufacturing processes involved in producing them.

Based on the facts provided by DOE, FTA would categorize the components of renewable energy projects specified by UST in the following table:

<u>Project</u>	<u>Component</u>	<u>Categorization</u>
Utility-scale photovoltaic system	Steel photovoltaic module racking	Steel/Iron
	Pile or ground screw	Steel/Iron
	Steel or iron rebar in foundation (e.g., concrete pad)	Steel/Iron
	Photovoltaic tracker	Manufactured Product
	Photovoltaic module (which includes the following components, if applicable: photovoltaic cells, mounting frame or backrail, glass, encapsulant, backsheet, junction box (including pigtails and connectors), edge seals, pottants, adhesives, bus ribbons, and bypass diodes)	Manufactured Product
	Inverter	Manufactured Product
Land-based wind facility	Tower	Steel/Iron
	Steel or iron rebar in foundation (e.g., spread footing)	Steel/Iron
	Wind turbine (which includes the following components, if applicable: the nacelle, blades, rotor hub, and power converter)	Manufactured Product
	Wind tower flanges	Manufactured Product
Offshore wind facility	Tower	Steel/Iron
	Jacket foundation	Steel/Iron
	Wind tower flanges	Manufactured Product
	Wind turbine (which includes the following components, if applicable: the nacelle, blades, rotor hub, and power converter)	Manufactured Product
	Transition piece	Manufactured Product
	Monopile	Manufactured Product
	Inter-array cable	Manufactured Product
	Offshore substation	Manufactured Product
	Export cable	Manufactured Product
Battery energy storage technology	Steel or iron rebar in foundation (e.g., concrete pad)	Steel/Iron
	Battery pack (which includes the following components, if applicable: cells, packaging, thermal management system, and battery management system)	Manufactured Product
	Battery container/housing	Manufactured Product
	Inverter	Manufactured Product

The technologies at issue are different from those typically used in public transportation, and the IRA includes specific rules on domestic content (such as a minimum required percentage for manufactured products) that are different from those in FTA's Buy America statute and regulations. Thus, conclusions about how these items are classified under the IRA do not constitute precedent for future FTA implementation of its Buy America requirements to federally funded public transportation projects.

Sincerely,

A handwritten signature in black ink, appearing to be 'Subash Iyer', written in a cursive style.

Subash Iyer
Chief Counsel