



April 20, 2006

Ms. Sandra Bushue
Deputy Administrator
Federal Transit Administration
400 Seventh Street, SW
Washington, DC 20590
FAX (202) 493-2251

VIA FAX AND ELECTRONIC FILING

**RE: Public Transportation on Indian Reservations Program;
Docket Number FTA-06-24143**

Dear Deputy Administrator Bushue:

On behalf of the 30 affiliated unions of the Transportation Trades Department, AFL-CIO (TTD)¹, we are pleased to respond to the Federal Transit Administration's (FTA) request for comments on the new Public Transportation on Indian Reservations Program, or Tribal Transit Program. Thank you for the opportunity to express our views on a program that will provide critical public transportation infrastructure to a population whose mobility needs have long been underserved.

In addition to the comments presented below, we fully concur with the submission to the above-referenced docket by the Amalgamated Transit Union (ATU). We note that in addition to ATU, the Transport Workers Union of America (TWU), the American Federation of State, County, and Municipal Employees (AFSCME), and the United Transportation Union (UTU) are affiliated with TTD and represent transit workers.

We have several serious concerns with the proposed implementation of the Tribal Transit Program, as outlined in the March 22, 2006 *Federal Register* notice. Specifically, we strongly oppose the FTA's arbitrary conclusion – which is counter to the intent of Congress – that Section 13(c) labor protections should not apply to this new program. We also oppose the proposed waiver of Buy America and FTA civil rights program requirements.

As indicated in the notice, the Tribal Transit Program was authorized in last year's multi-year surface transportation reauthorization legislation, SAFETEA-LU. Specifically, SAFETEA-LU authorized \$45 million to be taken from the Nonurbanized Area Formula Grants Program (or "Rural" program) under Section 5311 and apportioned for grants directly to Indian tribes. In addition to this program, tribes would continue to be eligible to receive funds as sub-recipients of states under the Rural program as in the past.

¹ A list of affiliated unions is attached.

Transportation Trades Department, AFL-CIO

888 16th Street, NW • Suite 650 • Washington, DC 20006 • tel: 202.628.9262 • fax: 202.628.0391 • www.ttd.org
Edward Wytkind, President • Michael A. Ingrao, Secretary-Treasurer



There is no question that Congress intended for Section 13(c) transit labor protections to apply to this new program. During the Congressional debate over SAFETEA-LU, TTD and our affiliated transit and rail unions fought to protect Section 13(c) collective bargaining and job rights for transit workers in new and existing transit programs. Congress expressed broad, bipartisan support to retain the core provisions of the Section 13(c) program, with minimal modifications, codified under 49 U.S.C. 5333(b).

After significant debate on the application of Section 13(c) during the bill, Congress specifically did not apply these protections to only two new programs – Transit in the Parks and the New Freedom Initiative. Exempting the Section 5311 program from 13(c) requirements, in whole or in part, was *never* debated and never even on the table. Given that the Tribal Transit Program is a takedown from the Section 5311 program, FTA’s decision to remove Section 13(c) protections is clearly counter to the statute and the specific will of Congress.

In fact, prior to SAFETEA-LU, the Administration had the authority to waive Section 13(c) for the Rural program under Section 5311. However, SAFETEA-LU specifically eliminated this authority and instead required a special warranty to be utilized that provides a fair and equitable arrangement to protect the interest of employees. Notably, Section 13(c) requirements were never waived when the Secretary of Labor had the authority – proof that Section 13(c) is not burdensome to the process of disbursing federal transit grants.

Moreover, FTA makes clear that tribes will be able to receive funding directly through the Tribal Transit Program or continue to be sub-recipients of states. As sub-recipients, tribes must agree in writing to the special warranty required in SAFETEA-LU as a condition of receiving funds. FTA is therefore proposing a process where some grant funds flowing to tribes would be subject to Section 13(c) through the warranty, while others – for the same purpose - would be exempt. It makes no sense to impose different, potentially confusing, requirements on tribes that have a demonstrated ability to both understand and comply with existing grant requirements. This is especially inexplicable given that FTA cites an order to streamline processes and requirements for programs to tribes as the rationale for waiving labor protections.

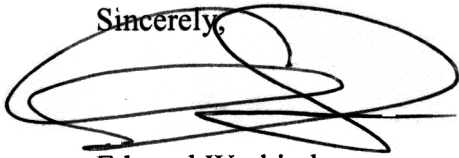
FTA also plans to waive Buy America requirements, “given the small size of the program relative to other FTA programs to which Buy America applies.” This again is an unauthorized, excessive discretion which we oppose. Congress has clearly expressed concern over attempts to evade Buy America requirements in the acquisition of transit equipment and SAFETEA-LU included provisions to strengthen – not weaken or remove – such requirements under the transit title. Buy America laws are in place to protect a critically important U.S. industry and it is not up to the FTA to decide that “the benefits of imposing this requirement would be insignificant relative to the potential increased administrative burden.” Again, as with labor protections, tribes will have access to two distinct grant programs with different grant requirements and asking tribes to track the difference is arguably a larger administrative burden.

Finally, FTA announces in the notice that tribes will not be required to meet specific civil rights program requirements codified in the transit title, and that “compliance with the underlying civil rights statutes is sufficient.” As with the Buy America waiver, FTA has decided that the benefits

of imposing these requirements will be insignificant. Civil rights protections are too important to be arbitrarily dismissed and if the FTA specific Title VI and Equal Employment Opportunity (EEO) requirements are important enough to be included for other federal transit programs, they should apply to the Tribal Transit Program as well.

Transportation labor is committed to working with the FTA to ensure that all programs authorized in SAFETEA-LU are implemented in a successful and efficient manner, as this will benefit the transit workers we represent nationwide and the traveling public. We urge you to follow the intent of Congress and reconsider the proposal to waive critical labor protections and other federal transit requirements. Thank you for the opportunity to share our views.

Sincerely,

A handwritten signature in black ink, appearing to read 'Edward Wytkind', written over a horizontal line.

Edward Wytkind
President

TTD AFFILIATES

The following labor organizations are members of and represented by the TTD:

Air Line Pilots Association (ALPA)
Amalgamated Transit Union (ATU)
American Federation of State, County and Municipal Employees (AFSCME)
American Federation of Teachers (AFT)
Association of Flight Attendants-CWA (AFA-CWA)
American Train Dispatchers Association (ATDA)
Brotherhood of Railroad Signalmen (BRS)
Communications Workers of America (CWA)
International Association of Fire Fighters (IAFF)
International Association of Machinists and Aerospace Workers (IAM)
International Brotherhood of Boilermakers, Blacksmiths, Forgers and Helpers (IBB)
International Brotherhood of Electrical Workers (IBEW)
International Federation of Professional and Technical Engineers (IFPTE)
International Longshoremen's Association (ILA)
International Longshore and Warehouse Union (ILWU)
International Organization of Masters, Mates & Pilots, ILA (MM&P)
International Union of Operating Engineers (IUOE)
Laborers' International Union of North America (LIUNA)
Marine Engineers' Beneficial Association (MEBA)
National Air Traffic Controllers Association (NATCA)
National Association of Letter Carriers (NALC)
National Federation of Public and Private Employees (NFOPAPE)
Office and Professional Employees International Union (OPEIU)
Professional Airways Systems Specialists (PASS)
Sheet Metal Workers International Association (SMWIA)
Transportation · Communications International Union (TCU)
Transport Workers Union of America (TWU)
United Mine Workers of America (UMWA)
*United Steel, Paper and Forestry, Rubber, Manufacturing, Energy,
Allied Industrial and Service Workers International Union (USW)*
United Transportation Union (UTU)