



Transportation Trades Department, AFL-CIO

January 25, 2024

Amitabha Bose
Administrator
Federal Railroad Administration
1200 New Jersey Ave., SE
Washington, DC 20590

**RE: Proposed Non-Availability Waiver of Buy America Requirements: Nevada Department of Transportation to Purchase Certain High-Speed Rail Components
Docket No. FRA-2023-0099**

Administrator Bose:

On behalf of the Transportation Trades Department, AFL-CIO (TTD), I am pleased to respond to the Federal Railroad Administration's (FRA) request for comments on a proposed non-availability waiver of Buy America requirements for certain components necessary to complete a high-speed passenger train project between Las Vegas, NV and Rancho Cucamonga, CA. TTD consists of 37 affiliated unions, including those representing the totality of rail labor and workers in construction and manufacturing who will be directly impacted by this potential waiver.¹ We therefore respectfully request that the FRA take our input on this matter into serious consideration.

At the request of the Nevada Department of Transportation (NVDOT) and Brightline West, the FRA seeks to waive its Buy America requirements for the domestic production of the trainset, signal systems, high-speed rail turnout and fire alarm systems required for the high-speed passenger rail project between Las Vegas and Rancho Cucamonga. According to the FRA's notice, two potential suppliers, Siemens and Alstom, represented they could provide the necessary high-speed rail components that meet Brightline West's specifications and the applicable FRA safety requirements but could not domestically produce certain components that would be required to meet the specifications.

We have long believed that the strength of our transportation system is linked with a strong domestic manufacturing base. And as such, we have consistently insisted on stringent Buy America application that will sustain domestic manufacturing and the millions of American jobs it supports. Buy America is not only required by law; it's also a tangible demonstration of the Biden-Harris Administration's pledge to prioritize the interests of American workers and domestic manufacturing.

¹ Attached is a complete list of TTD's affiliated unions.

As we stated in August of 2022, it is crucial to begin disbursing funds appropriated by the Infrastructure Investments and Jobs Act subject to domestic content preferences that will create high-quality American jobs with the option of joining a union. The FRA stated in its Notice of Funding Opportunity (NOFO) for the Federal-State Partnership for Intercity Passenger Rail (FSP) Program, the program through which this project ultimately received funding, that it, “intends to use the FSP Program to support the creation of good-paying jobs with the free and fair choice to join a union and the incorporation of strong labor standards.” We encourage the FRA to actively ensure this project meets the labor goals outlined in the NOFO.

Under current law, the FRA may waive its Buy America requirements if it determines that applying the Buy America requirements would be inconsistent with the public interest; the steel, iron, and goods produced in the United States are not produced in a sufficient and reasonably available amount or are not of a satisfactory quality; rolling stock or power train equipment cannot be bought and delivered in the United States within a reasonable time; or including domestic material will increase the cost of the overall project by more than 25 percent.² We note the limitations on the domestic production of necessary components for the project as identified in the notice. However, we urge the agency to take into consideration the impacts to workers and the economy of efforts to move away from or weaken important Buy America standards that help maximize the benefits of federal transportation investments, in addition to the benefits of expanding high-speed rail in the United States, as it evaluates the merits of this waiver.

It is critical that any waiver granted on this application –or any other Buy America waiver application– be issued with clear justifications on the rationale for and market dynamics that necessitate approval. All stakeholders must work together to avoid the need for similar waivers in the future. For its part, the FRA must clearly identify for all stakeholders its efforts to verify compliance, identify domestic sources, and consider alternative sourcing options. For too long it has been the government’s approach to issue open-ended waivers that essentially move critical manufacturing capacity offshore. It is precisely this decades-long precedent that led to these waiver requests in the first place. Manufacturers must use any Buy America waiver as a window of opportunity to invest in American workers and facilities. TTD remains fully supportive of the Brightline West project, but we must leverage this investment to develop a complete high-speed rail manufacturing supply chain – including car shells (shell structure, frame, vehicle paintwork) – that supports high-road jobs. Should any waivers prove to be necessary for this project, we should ensure that those are the last that ever need to be requested.

We appreciate the opportunity to comment on this Buy America waiver request and look forward to working with the FRA in the future.

Sincerely,



Greg Regan
President

² 49 U.S.C. 22905(a)(2); see also Public Law 117–58, 70914(b); and 2 CFR 184.7