



March 28, 2014

Mr. Joseph C. Szabo
Administrator
Federal Railroad Administration
U.S. Department of Transportation
1200 New Jersey Avenue, SE
Washington, DC 20590

Mr. Peter M. Rogoff
Administrator
Federal Transit Administration
1200 New Jersey Avenue, SE
Washington, DC 20590

Re: Request of Citizens for California High-Speed Rail Accountability to Deny a Request from the California High-Speed Rail Authority for a Buy America Waiver for the Domestic Assembly of Two Prototype High-Speed Rail Trainsets

Dear Administrator Szabo:

On behalf of Citizens for California High-Speed Rail Accountability (CCHSRA), we ask the Federal Railroad Administration to deny the February 28, 2014 request of the California High-Speed Rail Authority for a waiver from the Buy America Act to assemble two prototype trainsets. Below are three reasons to deny the request.

1. The Authority Evaded Public Scrutiny of This Waiver Request and Disguised Its Intentions through Deceptive Reports

Neither board members nor staff of the California High-Speed Rail Authority mentioned the waiver request – formally or informally – in the agendas, minutes, or transcripts for the January 14, February 11, or March 11, 2014 meetings of the board of the California High-Speed Rail Authority. In addition, a search for the letter on the California High-Speed Rail Authority website does not produce the February 28, 2014 request letter.

Our organization closely monitors the activities of the California High-Speed Rail Authority, but we only found out about the waiver request when someone discovered the letter on March 25, 2014 on the Federal Railroad Administration website.

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In the one meeting document we identified (a September 10, 2013 staff report) in which the California High-Speed Rail Authority vaguely hints at potential challenges concerning the assembly of trainsets in the United States, the hint is contained within a sentence about the Authority's approach to "facilitate compliance" with the Buy America requirements:

"The joint procurement approach would facilitate compliance with the Federal Railroad Administration's Buy America requirements in that a larger initial order of trainsets, and the expectation of future orders of trainsets, will encourage off-shore manufacturers to establish domestic sources of supply."

In another example of hiding the need for a waiver within rhetoric about complying with Buy American requirements, the California High-Speed Rail Authority 2014 Draft Business Plan (on page 22) portrays an effort to "encourage manufacturers to locate in the United States and help achieve Buy America objectives." But it does not indicate that the Authority will seek a waiver from the requirement for assembly of the trainsets:

"The Authority and Amtrak have joined forces in the search for high-speed trainsets for both California and the Northeast Corridor. This approach will increase industry interest and competition, reduce administrative and capital costs associated with procurement, and is designed to encourage manufacturers to locate in the United States and help achieve Buy America objectives. In January 2014, a joint request for proposals (RFP) was issued for trainsets that are currently being manufactured and in commercial service that are capable of operating safely at speeds up to 220 mph."

We don't want to ascribe motivations or make accusations, but we do point out that the California High-Speed Rail Authority neglected to inform the People of California or the People of the United States about the waiver request. We do not know if the waiver request was provided to any members of the California State Legislature or the United States Congress.

2. The Authority Neglected Reasonable Planning to Comply with the Federal Buy America Requirement, Despite Plenty of Time to Do So

At the same time this RFP was issued, the Siemens Rail System manufacturing facility in Sacramento was close to being awarded a \$225 million contract to build 32 diesel-electric "Charger" locomotives for six states, including California. In a March 14, 2014 press release, Siemens quoted a California economic development official:

"California boasts the nation's largest manufacturing sector which supports over 1.2 million jobs and has enjoyed three straight years of job growth in the state," said Kish Rajan, GO-Biz Director for the California Governor's Office of Business and Economic Opportunity. "Siemens is a strong member of the California manufacturing industry and GO-Biz applauds their efforts to build the next generation of energy efficient locomotives in the Sacramento area."

Reportedly, Electro-Motive Diesel (with assembly facilities in Indiana) and MotivePower (with assembly facilities in Idaho) also bid on this contract.

Meanwhile, the Siemens manufacturing plant in Sacramento is producing the Amtrak Cities Sprinter locomotive, the first of which began operation in the Northeast Corridor in February 2014. According to the Amtrak website, “assembly of the Amtrak Cities Sprinter (ACS-64) will provide work for 69 local manufacturers in 23 states across 60 cities in the United States.” Parts come from Siemens plants in Norwood, Ohio; Alpharetta, Georgia; and Richland, Mississippi.

Assuming that the two California High-Speed Rail prototype trainsets will be funded from Federal Railroad Administration 2010 grants from its annual budget appropriation and/or from the American Recovery and Reinvestment Act of 2009 (ARRA), we are dumbfounded that the California High-Speed Rail Authority did not begin preparing for compliance with Buy America provisions in 2010. Assembly of locomotives is done in the United States – is 3½+ years not enough time to alert manufacturers about prospects for this prestigious and profitable contract?

FY10	CA - Statewide Rolling Stock Acquisition (FY10)	CA - Multiple Corridors	Acquisition of at least 15 passenger cars and approximately four locomotives for use on intercity rail corridors in California, enabling trains to accommodate increasing ridership, improve reliability, reduce operating costs, and operate at higher speeds.	\$100,000,000
ARRA	CA - Statewide Rolling Stock Acquisition (ARRA)	CA - Multiple Corridors	Acquisition of at least 27 passenger cars and approximately two locomotives for use on intercity rail corridors in California, enabling trains to accommodate increasing ridership, improve reliability, reduce operating costs, and operate at higher speeds.	\$68,000,000

The Buy American provisions relevant to the trainset prototypes would seem to be contained in the American Recovery and Reinvestment Act of 2009 as Title XVI, Section 1605 and Title 49 USC Section 5323(j). Did the California High-Speed Rail Authority know these provisions?

We also note a June 28, 2013 letter from U.S. Secretary of Transportation Ray LaHood to the chairman of Xpress West denying a loan for construction and initial operation of a high-speed rail line between Las Vegas and Southern California because Xpress West could not comply with Buy America requirements for domestic assembly of rolling stock. That loan application was submitted in 2010.

Why didn't the California High-Speed Rail Authority work in conjunction with Xpress West from 2010 to 2013 in pursuit of domestic production of trainsets for High-Speed Rail? The request for a waiver indicates that it would take 1½ to 2 years "to establish the required facilities to support a domestic high-speed trainset assembly capacity." The California High-Speed Rail Authority had twice as long of a period to plan for these facilities.

It suggests poor planning and lack of initiative on the part of the California High-Speed Rail Authority. Is that justification for a waiver of a law meant to encourage domestic manufacturing?

3. A Buy American Waiver Undermines a Major Purpose of California High-Speed Rail to Create Manufacturing Jobs in the United States

In the early 1990s, California High-Speed Rail was proposed as a way to create new jobs for workers in defense and aerospace manufacturing facilities in Southern California after the end of the Cold War. That never happened, and most of those workers have moved on or retired. Yet we as American citizens have expected that the California High-Speed Rail system would provide new high-skill manufacturing jobs to produce the trains.

Now our California High-Speed Rail Authority quietly seeks a waiver from our Federal Railroad Administration to assemble trainsets in a foreign country such as the People's Republic of China. No one knows why this is happening or who will build these trainsets. Some Californians assumed that the Siemens manufacturing plant in Sacramento would have an excellent chance of getting this work. Not with a waiver!

4. A Buy American Waiver Sets a Poor Precedent for Future High Speed Rail Materials and Facilities

A waiver for the Buy America provisions at this stage of the California High Speed Rail Project represents a dangerous early precedence that future trainsets and other needed equipment such as maintenance equipment, traction control, computer monitoring systems and power equipment may be outsourced to other countries for manufacturing and production.

As ordinary members of the public, the CCHSRA is not privy to all of the insider information not reflected in documents available to the public. But the four reasons listed above should be sufficient at this time for the Federal Railroad Administration to serve Americans and the intent of Buy America laws by denying the February 28, 2014 request of the California High-Speed Rail Authority for a waiver from the Buy America Act for assembly of two prototype "trainsets." Neither do we recognize any legitimate detailed justifications as to why the waiver is needed.

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We request that you provide this organization with a notice (preferably electronic) of your decision in response to this Buy America waiver request from the California High-Speed Rail Authority. Please also provide us with a notice of publication of any decisions on this matter in the *Federal Register*, so we can more effectively participate in the process as ordinary citizens.

Sincerely,

A handwritten signature in brown ink that reads "Aaron Fukuda". The signature is written in a cursive style with a long horizontal line extending to the right.

Aaron Fukuda

Co-Chair

Citizens for California High-Speed Rail Accountability

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cc:

Congressman David Valadao

Congressman Jeff Denham

Congressman Kevin McCarthy

Congressman Tom McClintock

Congressman Doug LaMalfa

California Assemblyman Jim Patterson

California Senator Andy Vidak

California Senator Mark DeSaulnier