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OFFICE OF THE CHIEF COUNSEL

Jeff Martin
Chief Logistics Officer

August 8, 2012

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

Re: The National Railroad Passenger Corporation ("Amtrak") Request for a Waiver from the FRA's Buy America Requirements to Purchase Nortrak Turnouts

Dear Mr. Szabo:

Amtrak is hereby requesting a waiver from the Federal Railroad Administration's ("FRA") Buy America requirements set forth at 49 U.S.C. 24405(a) to purchase [REDACTED] No.32.75 136RE Special Turnouts ("Turnout") manufactured by voestalpine Nortrak, Inc. ("Nortrak") for use in the New York City to Trenton, NY, High-Speed Rail Improvements Program (the "High-Speed Rail Improvements Program" or "Program"). A detailed justification for Amtrak's request is set forth below.

I. The High-Speed Rail Improvements Program

On August 8, 2011, Amtrak and the FRA entered into a cooperative agreement under the terms of the High-Speed Intercity Passenger Rail (HSIPR) Program (the "Cooperative Agreement"). The Cooperative Agreement provided Amtrak with \$449,944,000 in funding for the High-Speed Rail Improvements Program. The Program includes two important Tasks. Task 1, High-Speed Rail Improvements Newark, NJ to Trenton, NJ, is to upgrade and improve the catenary, power, track and signal systems on the on the North East Corridor ("NEC") primarily between New Brunswick, New Jersey and Trenton, New Jersey. Task 2, New York Penn Station West Interlocking Improvements, is to improve the western approach tracks in New York Penn Station to facilitate increased speeds and improved reliability for all users and eventual higher levels of service. It is for Task 2 that the Turnouts are required.

The High-Speed Rail Improvements Program is designed to complement Amtrak's proposed NEC Gateway program to provide additional trans-Hudson tunnel capacity into New York and to expand station capacity at Penn Station and the adjacent Moynihan Station intercity passenger facility on the site of the former Farley Post Office.

The Program will help accommodate incremental growth before the proposed NEC Gateway program is fully operational and would complement the Gateway program once it is built.



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The benefits provided by the High-Speed Rail Improvements Program are quite significant and of great importance to the furtherance of high speed rail on the NEC. As indicated in the Cooperative Agreement, once Tasks 1 and 2 are completed, both Amtrak and the FRA expect to see improved travel times and service reliability for Amtrak intercity, including high-speed, regional and long-distance services.

The Program will also do the following:

- enhance regional, State-supported, long-distance, and commuter services by allowing these trains to make high-speed diverging moves from the current interior high-speed tracks to upgraded tracks that permit 125-mph operation between New Brunswick and Trenton and provide improved service to location stations including Princeton Junction and Trenton;
- minimize service disruptions during construction and establish reliable operating patterns when construction is complete; and
- ease congestion and route conflicts between and among NEC and Empire Corridor high-speed and conventional services on the immediate approach to Penn Station.

In addition to the benefits set forth above, it is also expected that New Jersey Transit commuter trains will receive ancillary benefits from the improvements.

II. The Solicitation Process

Amtrak issued a competitive Invitation to Bid (the "IFB" or "Solicitation") to five suppliers that were identified as having manufacturing capabilities in the United States. The Solicitation provided that all of the Turnouts were to be designed, fabricated, tested and delivered in accordance with detailed drawings provided by Amtrak's Engineering Department. The Solicitation also provided that the supplier or bidder selected for award of the Contract would be required to begin performance within ten days of issuance of the Notice to Proceed.

Of the five suppliers identified, only Nortrak submitted a bid in response to the Solicitation. The remaining suppliers indicated that they were unable to bid because they did not have the manufacturing capabilities. Since Amtrak received no domestic bids in response to its Solicitation for turnouts and there appears to be only one supplier that can meet Amtrak's requirements, we have no information on price differentials or a basis for comparing a domestic



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end product to a foreign one. Accordingly, Amtrak made the decision to select Nortrak for award of a contract pursuant to the IFB.

III. Description of the End Product for Which a Waiver is Requested

Amtrak currently uses the Nortrak Turnout, which is a number 32.75, in its high speed operations. The 32.75 turnout is the longest turnout in North America, allowing diverging speeds of up to 80 MPH. High speed operations require longer turnouts in order to maintain higher speeds when diverging from one track to another. Amtrak has made the 32.75 its standard turnout for high speed operation, and currently has 40 of these turnouts on the North East Corridor. The special geometric design of these turnouts requires specialized components, which are currently not available domestically. Nortrak's parent company is the manufacturer of these specialized components in Austria and Germany.

The Turnouts will be manufactured by Nortrak in the United States at its facility in Birmingham, Alabama. Although the Turnouts will be largely comprised of domestic components, approximately thirteen (13) percent of the material is of foreign origin. The following table lists the foreign components, the component's country of origin, and comments indicating why the component is unable to be sourced domestically.

Foreign Components	Origin	Comments
Switch Point Rail Machined ZU1-60 RH	Austria	Rail not rolled in USA
Switchpoint Rail Machined ZU1-60 LH	Austria	Rail not rolled in USA
Vee Point Forging Machined	Germany	Forging die/process owned by VAE Gmbh
SW Double Roller Assembly and Plate	Switzerland	Schwihag design manufactured in Switzerland
SW Roller Assembly	Switzerland	Schwihag design manufactured in Switzerland
Schwihag Plate	Switzerland	Schwihag design manufactured in Switzerland

(As additional information, Amtrak has attached at Appendix A, a description of each of these components and information on how each of these items is incorporated in the Turnout.)



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It is important to note that Amtrak's Procurement Department has engaged Nortrak in discussions about whether it can reduce the amount of foreign material in its Turnouts. While Nortrak has indicated that it is unable to reduce the number of foreign components, it has been able to reduce the amount of foreign materials in at least one of its subcomponents. Amtrak will continue its efforts to encourage Nortrak to look for ways to increase the amount of domestic material in its Turnouts.

IV. Request for a Waiver

As set forth above, Amtrak's Engineering Department has indicated that, in order to maintain higher speeds, specially designed longer turnouts are required. In spite of our efforts, Amtrak has been unable to identify a Turnout manufactured in the United States that is both comprised of a 100% domestic components and that is of satisfactory quality to Amtrak's current needs.

Pursuant to Section 24405(a)(1), the FRA Administrator may waive application of the Buy America Statute if he finds that: A) applying the Statute would be inconsistent with the public interest; B) 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; C) rolling stock or power train equipment cannot be bought and delivered in the United States within a reasonable time; or D) including domestic material will increase the cost of the overall project by more than 25 percent. In as much that there are no turnouts with domestically produced components in the United States that are of satisfactory quality to meet Amtrak's needs, we believe that a waiver under the terms of B above should be granted. Amtrak, therefore, requests that the FRA grant Amtrak a waiver from its Buy America requirements to allow Amtrak to purchase the Nortrak Turnout for use in this very important Project.

V. Conclusion

As you are aware, Amtrak is no stranger to Buy America(n). We have a long history of complying with our own domestic buying preference statute (the "Amtrak Buy American") (49 U.S.C. §24305(f) and we understand the importance of procuring domestic goods. While the Amtrak Buy American and the FRA Buy America have substantially different requirements, we assure you that we are equally committed to complying with the FRA's statute as required under the terms of Passenger Rail Investment and Improvement Act of 2008 (PRIIA) and the HSIPR Program.



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Thank you for considering Amtrak's Buy America waiver request. Please contact me at (215) 349-1217 should you have any questions or require additional information to make this important determination regarding Amtrak's waiver request.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff Martin", with a long horizontal flourish extending to the right.

Jeff Martin
Chief Logistics Officer
Procurement and Materials Management

Attachment

Appendix A

Description of the Foreign Materials Incorporated in the Nortrak Turnouts

Item 1 – Switch Point Rail Machined ZU1-60 RH – The ZU1-60 rail is machined into a high speed switch point which is 132 feet long. This long point is required to obtain the high speed through the turnout, and its unique shape is needed to maintain stability of the point. This shape is also needed in order to move the point from normal position to diverging position. The shape also allows positive hold down on the gage side of the stock rail, which is not available on standard track material.

Item 2 – Switch Point Rail Machined ZU1-60 LH – Like the previous item, the ZU1-60 rail is machined into a high speed switch point which is 121 feet 4 1/2 inches long. This long point is required to obtain the high speed through the turnout, and its unique shape is needed to maintain stability of the point. This shape is also needed in order to move the point from normal position to diverging position.

Item 3 – Vee Point Forging Machined – The Vee Point Forging is machined to make the movable point frog, which is required for smooth ride quality through the frog on both the straight and diverting sides at higher speeds.

Item 4 – SW Double Roller Assembly and Plate – There are 6 double roller plates and roller assemblies on the 32.75 turnout. These plates provide positive hold down on the inside gage side of the stock rail, not available on standard track material. The double rollers provide a smooth rolling surface, aiding in the movement of the long switch point from the straight to diverging side.

Item 5 – SW Roller Assembly – There are 6 roller plates and assemblies on the 32.75 turnout. The roller assemblies provide a smooth rolling surface, aiding in the movement of the long switch point from the straight to diverging side. There are also 2 narrow roller assemblies used near the point of switch.

Item 6 – Schvihag Plate – There are 58 Schvihag plates on the 32.75 turnout. These plates provide positive hold down on the inside gage side of the stock rail, not available on standard track material.