



U.S. Department
of Transportation

Administrator

1200 New Jersey Avenue, SE
Washington, DC 20590

**Federal Railroad
Administration**

APR 13 2015

Mr. Richard L. Gans
Vice President – General Counsel & Secretary
Long Island Rail Road
Jamaica Station
Jamaica, NY 11435-4380

Re: Request for Waiver of Buy America Requirement

Dear Mr. Gans:

As you are aware, on February 19, 2015, the New York Metropolitan Transportation Authority (MTA) on behalf of its commuter railroad subsidiaries, Long Island Rail Road (LIRR) and Metro-North Commuter Railroad Company (Metro-North), requested a waiver from the Federal Railroad Administration's (FRA) Buy America requirement to purchase (a) transponders and (b) Temporary Speed Restriction (TSR) safety servers for use in LIRR's and Metro-North's Positive Train Control system (PTC). The Rail Safety Improvement Act of 2008 requires certain railroads, including LIRR and Metro-North, to implement a PTC system on all nonexempt commuter main-line tracks by December 31, 2015. Facilitating PTC implementation is one of FRA's top priorities.

MTA requested the waiver, stating that the components were not produced in the U.S. in sufficient and reasonably available amounts or are not of a satisfactory quality. The transponders and TSR safety servers are manufactured in Sweden. The two non-domestic components represent approximately 1% of the total value of the PTC system integrator contracts (PTC Contracts). MTA values the TSR safety servers at less than \$1 million and the transponders at approximately \$4 million. Total contract costs are approximately \$428 million. For the reasons set forth below, FRA is granting a waiver for the purchase of the transponders and TSR safety servers.

A waiver is appropriate because domestically-produced transponders and TSR safety servers meeting MTA's technical and schedule requirements are not currently "produced in sufficient and reasonably available amount or are not of a satisfactory quality." Coordinating with FRA, MTA engaged the U.S. Department of Commerce's National Institute of Standards and Technology's Hollings Manufacturing Extension Partnership (NIST-MEP) to conduct market research for the transponders and TSR safety servers. In conducting that research, MTA contacted several potential manufacturers identified by NIST-MEP. None produced the transponders or TSR safety servers.

On February 20, 2015, FRA provided public notice of this waiver request and a 15-day opportunity for comment on its website. FRA also emailed notice to over 6,000

persons who have signed up for Buy America notices through “GovDelivery.” See <http://www.fra.dot.gov/Page/P0784>. FRA received one comment, which was not responsive to this waiver request. FRA will publish this letter granting MTA’s request in the Federal Register and provide notice of such finding and an opportunity for public comment after which this waiver will become effective.

Question about this letter can be directed to, John Johnson, Attorney-Advisor, at John.Johnson@dot.gov or (202) 493-0078.

Sincerely,

A handwritten signature in cursive script, reading "Sarah E. Feinberg". The signature is written in black ink and is positioned below the word "Sincerely,".

Sarah Feinberg
Acting Administrator