

July 30, 2020



WMATA Board of Directors

600 5th Street NW
Washington, DC 20001

Dear Board Members,

On behalf of the Alliance for American Manufacturing, a partnership between the United Steelworkers and leading domestic manufacturers, I am writing to voice our opposition to the Washington Area Metropolitan Transit Authority's (WMATA) decision to procure between 256 and 800 foreign-produced Metrorail 8000-series railcars, bypassing American workers and U.S. companies who are ready to do the work here in America. We urge you to immediately stop the egregious outsourcing of the public infrastructure in our nation's capital and reissue the pending request for bids with the inclusion of federal Buy America laws.

WMATA's Capital Budget funds rolling stock purchases and this fund receives around \$460 million in annual funding from the U.S. Department of Transportation, money which applies Buy America provisions requiring both 70 percent of the cost of the components produced and the final assembly of the vehicle to take place in the United States. While we recognize that WMATA receives funding via a mix of federal, state, and local taxpayer money, it appears that — in an effort designed exclusively to bypass American workers — WMATA is exploiting a loophole fashioned by the creative accounting of federal-aid funds known as “segmentation” to claim that the procurement of the new 8000-series railcars is not subject to federal procurement requirements.

The effect of this accounting gimmick is to limit the applicability of the Federal Transit Authority's (FTA) Buy America requirement to only portions of a project and to permit the use of foreign materials and products. Congress has previously acted to put a halt to this practice, closing the so-called “segmentation” loophole for highway projects that was used by California officials to outsource materials and fabrication of the San Francisco-Oakland Bay Bridge. This project has been deemed nothing short of a failure, given its cost-overruns, quality and safety issues, and the missed opportunity it presented to create good manufacturing jobs and strengthen America's industrial capabilities. Despite this successful strengthening of Buy America for Federal Highway Administration projects, as we see in this case at WMATA this remains a practice by which FTA funds are misused. It is a violation of the spirit, if not the letter, of the law.

At a time when the COVID-19 related economic fallout has cost tens of millions of Americans their jobs and over seven hundred thousand manufacturing workers have already been laid off, your decision to evade Buy America requirements represents a missed opportunity to put taxpayer dollars to work creating and supporting jobs in factories across the country. WMATA's arbitrary assertion that it is funding this procurement solely from funds it receives from the District of Columbia, Maryland, and Virginia is particularly galling in light of its recent use of more than \$767 million in federal funding from the Coronavirus Aid, Relief, and Economic Security (CARES) Act.

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ALLIANCE FOR
american
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While WMATA's \$1.82 billion capital program being used to fund the 8000-series railcar procurement remained largely unchanged, it is appalling and disgraceful that WMATA is avoiding application of federal domestic content requirements that would support the 125,000-plus workers employed in the rail supply chain at hundreds of factories throughout our nation even as it is being bailed out by federal tax dollars. There is no reasonable justification for this accounting gimmick.

In 2019 Congress also barred WMATA from procuring rail cars from CRRC, a Chinese state-owned rolling stock manufacturer. While WMATA will not be directly procuring these rail cars from CRRC, by failing to follow Buy America, components manufactured by CRRC or other Chinese State-owned companies can still be used in these foreign-assembled railcars. WMATA's reckless decision to avoid complying with Buy America runs directly counter to the clear intent of Congress.

Americans of all political backgrounds believe that their tax dollars should be spent on U.S.-made products, and American workers stand ready to supply the materials needed. WMATA survives on those tax dollars, and in this time of crisis WMATA should do its part to support domestic manufacturers, American workers, and the communities they sustain. We urge you to immediately stop the egregious outsourcing of the public infrastructure in our nation's capital and reissue the pending request for bids with the inclusion of federal Buy America laws.

Sincerely,



Scott N. Paul
President
Alliance for American Manufacturing