

demand. To achieve these goals WSDOT applied for Federal funding through the High Speed Intercity Passenger Rail Program (HSIPR Program) administered by the FRA and funded by the American Recovery and Reinvestment Act (Recovery Act). WSDOT's application under the Recovery Act was split into three Service Blocks, and identified incremental service benefits including increased service levels, improved on-time performance and schedule reliability, and reduced travel times. The FRA intends to provide funding under the HSIPR Program for projects contained in two of the three service blocks.

In order to comply with the requirements of the HSIPR Program Guidance (Interim Guidance) that described the eligibility requirements and procedures for obtaining funding under the HSIPR Program (74 FR 29901 (June 23, 2009)), WSDOT prepared a Tier-1 or "service" NEPA document that included the analysis of two alternatives; the "No Build" and the "Corridor Service Expansion Alternative." The Tier-1 EA was completed in September 2009 and was made available for comment between October 2, 2009 and October 23, 2009 on the WSDOT Web site. Thirteen agencies submitted written comments. No individual written comments were received.

Based on the analysis in the Tier-1 EA, FRA released a draft FONSI for public comment on July 8, 2010 for a period of 30 calendar days (75 FR 39325 (July 8, 2010)). FRA received six comments on the draft FONSI, including comments from one federal agency, two state agencies, and three local governments. In compliance with NEPA and the FRA's Environmental Procedures, FRA has addressed all comments on the FONSI and has determined that the PNWRC corridor improvements will not have a significant impact on the quality of the human or natural environment. Prior to release of construction funding for individual projects, WSDOT will successfully complete applicable mitigation measures detailed in the FONSI and complete appropriate project-level NEPA evaluations, documentation, and required determinations for the individual project.

Issued in Washington, DC, on November 19, 2010.

**Joseph C. Szabo,**  
Administrator.

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BILLING CODE 4910-06-P

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

#### Notice of Intent To Grant Buy America Waiver to Northern New England Passenger Rail Authority To Purchase 3,340 AREMA Specified Carbon Steel Standard 1 $\frac{1}{8}$ Nominal Diameter Nuts

**AGENCY:** Federal Railroad Administration (FRA), United States Department of Transportation (DOT).

**ACTION:** Notice of intent to grant Buy America waiver.

**SUMMARY:** FRA is issuing this notice to advise the public that it intends to grant the Northern New England Passenger Rail Authority's (NNEPRA) waiver request from FRA's Buy America requirement, 49 U.S.C. 24405(a), for the purchase and use of 3,340 AREMA specified carbon steel standard 1 $\frac{1}{8}$  nominal diameter nuts. FRA intends to grant the waiver because there are no domestic commercially available track nuts that meet the needed specifications and custom made fabricated track nuts that cannot be delivered for 10–16 weeks are not "reasonably available" under 49 U.S.C. 24405(a)(2)(B), especially given NNEPRA has mobilized for the track construction and Maine has a short construction season. In addition, NNEPRA used a competitive bidding process to procure the track nuts and no bidders came forward at that time who could comply with Buy America. Finally, FRA published public notice of the NNEPRA waiver request in the **Federal Register** on August 2, 2010. This notice also failed to identify a reasonably available domestic source. 49 U.S.C. 24405(a)(4) requires that the Secretary provide public notice of a determination that it is necessary to waive the Buy America requirement and provide a maximum fifteen day opportunity for public comment before the waiver becomes final.

**DATES:** Written comments on FRA's determination to grant NNEPRA's Buy America waiver request should be provided to the FRA on or before December 15, 2010.

**ADDRESSES:** Please submit your comments by one of the following means, identifying your submissions by docket number FRA–2010–0122. All electronic submissions must be made to the U.S. Government electronic site at <http://www.regulations.gov>. Commenters should follow the instructions below for mailed and hand-delivered comments.

(1) *Web Site:* <http://www.regulations.gov>. Follow the instructions for submitting comments

on the U.S. Government electronic docket site;

(2) *Fax:* (202) 493–2251;

(3) *Mail:* U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Docket Operations, M–30, Room W12–140, Washington, DC 20590–0001; or

(4) *Hand Delivery:* Room W12–140 on the first floor of the West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

*Instructions:* All submissions must make reference to the "Federal Railroad Administration" and include docket number FRA–2010–0122. Due to security procedures in effect since October 2001, mail received through the U.S. Postal Service may be subject to delays. Parties making submissions responsive to this notice should consider using an express mail firm to ensure the prompt filing of any submissions not filed electronically or by hand. Note that all submissions received, including any personal information therein, will be posted without change or alteration to <http://www.regulations.gov>. For more information, you may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477), or visit <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** For questions about this notice, please contact Ms. Linda Martin, Attorney-Advisor, FRA Office of Chief Counsel, (202) 493–6062 or via e-mail at [Linda.Martin@dot.gov](mailto:Linda.Martin@dot.gov).

**SUPPLEMENTARY INFORMATION:** See waiver letter below.

Ms. Marina Douglass,  
Manager of Budget and Administration,  
Northern New England Passenger Rail Authority,  
75 West Commercial Street, Suite 104,  
Portland, ME 04101–4631,  
Re: Request for Waiver of Buy America Requirement,

Dear Ms. Douglass:

This letter is in response to your July 14, 2010, request that the Northern New England Passenger Rail Authority (NNEPRA) be granted a waiver from the Federal Railroad Administration's (FRA) Buy America provision, at 49 U.S.C. 24405(a), to permit NNEPRA to purchase 3,340 foreign-made AREMA specified carbon steel standard 1 $\frac{1}{8}$  nominal diameter track nuts. Section 24405(a) authorizes the Secretary of Transportation to obligate certain grant funds only if the steel, iron, and manufactured goods used in the project are produced in the United States. The

Secretary, or his delagatee, may waive the Buy America requirement provided that he or she finds that: (A) applying it would be inconsistent with the public interest; (B) the steel, iron, and goods manufactured in the United States are not produced in sufficient and reasonably available amount or are not of a satisfactory quality; (C) rolling stock or power train equipment cannot be bought or delivered to 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. 49 U.S.C. 24405(a)(2)(A)–(D). The NNEPRA asserts that the specific required track nuts are not produced in the United States in sufficient and reasonably available amounts and that, therefore, a waiver is warranted under 49 U.S.C. 24405(a)(2)(B). For the following reasons, I am granting NNEPRA's request.

In January 2010, NNEPRA was awarded \$35 million in America Recovery and Reinvestment Act (ARRA) funds to extend Amtrak's Downeaster passenger service from its existing route of Boston, Massachusetts to Portland, Maine further north to station stops in Freeport and Brunswick, Maine. The track bolts and nuts needed to be delivered to the project in time for the planned start of continuous welded rail installation the week of August 16, 2010. Consequently, delivery within 30 days of the notice of award was a requirement in the Invitation to Bid. The low bid for the nuts was \$0.63 each with a total cost of \$2,104.20, which includes shipping. The low bidder was able to meet the required delivery schedule. During the procurement process for these track bolts, all of the bid package holders asserted that while the track bolts were domestically produced, the standard square nuts no longer were and would have to be obtained from a foreign manufacturer.

In late June 2010, NNEPRA informally notified FRA staff that it could find no domestic source of 3,340 AREMA specified carbon steel standard 1½ nominal diameter track nuts, which were needed for the project. At that time, FRA asked NNEPRA to expand the search for a domestic source, and suggested they contact the Railway Supply Institute (RSI) and/or other suppliers of track equipment. The NNEPRA contacted many of the major railroad track material suppliers, including Harmer Steel, LB Foster, A&K Railroad Materials, Unitrac Railroad Materials, Atlantic Track & Turnout, Vossloh, Progress Rail, and Railroad Tools & Solutions. They all confirmed that they could not supply domestically

produced AREMA standard square nuts for track bolts. The NNEPRA also attempted to determine if it would be possible to have the nuts custom-manufactured in the United States. The NNEPRA contacted Rockford Bolts, a major domestic producer of AREMA standard track bolts, and were told they could not custom fabricate the standard square nuts. The NNEPRA also contacted Lewis Bolt & Nut, a major U.S. bolt manufacturer, and they stated they would not custom fabricate the standard square nuts and did not know of any other U.S. manufacturer who would. The FRA also independently contacted RSI. The RSI knew of no domestic source of the track nuts. At that time, FRA staff told NNEPRA that its only option was to file a formal waiver request.

If FRA determines that it is necessary to grant a waiver, it is required to (before the date on which the finding takes effect) "(A) publish in the **Federal Register** a detailed written justification as to why the waiver is needed; and (B) provide notice of such finding and an opportunity for public comment on such finding for a reasonable period of time not to exceed 15 days." 49 U.S.C. 24405(a)(4). Though not required to publish waiver requests before a decision whether to grant or deny has been made, FRA published notice of NNEPRA's waiver request in the **Federal Register** on August 2, 2010 in order to invite public comment on whether there were or were not domestic sources of the required track nuts.

The FRA received five responses to its August 2, 2010 Public Notice, which are summarized here in no particular order.

- Allison Symmonds, representative for the Alliance for American Manufacturing requested that the waiver be denied, commenting that Dyson Corporation and Chicago Nut & Bolt could provide the specified track nuts.

- John A. Tolman, National Legislative Representative of the Brotherhood of Locomotive Engineers and Trainmen (BLET) and James A. Stern, Jr., National Legislative Director of the United Transportation Union (UTU) submitted a joint comment. The BLET and UTU reported that the tool and hardware supply company Grainger could supply the specified track nuts made in the United States. They requested denial of the waiver, or a design change if the design of the track bolt required foreign made nuts. The BLET and UTU expressed a desire to reserve Buy America exemptions for legitimate reasons and categorized the subject waiver as "trivial" and a "nuisance."

- W. Dan Pickett, President of the Brotherhood of Railroad Signalmen (BRS), opposed the waiver. The BRS also commented that the 10-day comment period was inadequate to submit detailed comments, and broadly asserted that more than one million domestically produced track bolts and nuts meeting the stated specifications are in service or supplier inventory and expressed confidence that numerous domestic producers can offer the required nuts. The BRS did not indicate any specific domestic producer.

- Rick Inclima, Director of Safety for the Brotherhood of Maintenance of Way Employees Division (BMWED) of the Teamsters Rail Conference opposed the waiver as well as the 10-day comment period as inadequate. The BMWED asserted that more than one million domestically produced track bolts and nuts meeting the stated specifications are in service or supplier inventory and expressed confidence that numerous domestic producers can offer the required nuts. The BMWED did not indicate any domestic producer.

- An anonymous commenter speculated that the quantity of nuts required should be sufficient for any American shop to become able to produce the order.

Because two of the responses indicated that there may be domestic sources of the track nuts, FRA requested that NNEPRA contact the identified sources and confirm whether in fact they could provide the track nuts. The NNEPRA contacted these sources and found as follows:

1. *Grainger Industrial Supply*

The NNEPRA confirmed that Grainger could not provide domestically produced AREMA standard square head track nuts.

2. *Chicago Track Nut and Bolt*

The NNEPRA confirmed that Chicago Track Nut & Bolt could in 10 to 12 weeks post-contract award custom fabricate standard square track nuts meeting the AREMA specifications for a cost of \$59,518.80. This cost did not include delivery.

3. *Dyson Corp.*

The NNEPRA confirmed that Dyson Corp. could in 12 to 16 weeks post-contract award custom fabricate standard square track nuts meeting the AREMA specifications for a total cost of \$16,432.80. This cost did not include delivery.

The NNEPRA concluded that while the identified domestic custom fabricated track nuts could be secured in 10 to 16 weeks at a cost of approximately \$14,000 more than the lowest foreign bidder this did not mean

that domestic track nuts are “reasonably available” and the waiver should still be granted.

**CONCLUSION:**

For the following reason, FRA is granting NNEPRA’s request. The FRA agrees with NNEPRA in that custom made fabricated track nuts that cannot be delivered for 10–16 weeks are not “reasonably available” under 49 U.S.C. 24405(a)(2)(B), especially given that NNEPRA has mobilized for construction, prompt project implementation is consistent with ARRA’s economic recovery goals, and Maine has a short construction season. In addition, NNEPRA used a competitive bidding process to procure the track nuts. Neither Chicago Track Nut and Bolt nor Dyson Corp. came forward at that time, but instead NNEPRA received bids only from suppliers offering foreign-made track nuts. This waiver is granted only because of the specific facts of this project; any future requests for a waiver regarding this product will not be granted without a specific showing that domestic track nuts for that particular project also are not reasonably available at that time. This decision does not become final until fifteen (15) days after its publication in the **Federal Register**.

Sincerely,  
Karen Rae  
Deputy Administrator

**Note:** The Deputy Administrator is making this decision because Administrator Joseph C. Szabo is recused from making it. Mr. Szabo is a former United Transportation Union (UTU) employee. The UTU commented in opposition to granting the waiver request.

Issued in Washington, DC, on November 23, 2010.

**Mark E. Yachmetz,**  
*Associate Administrator for Railroad Development, Federal Railroad Administration.*

[FR Doc. 2010–30178 Filed 11–29–10; 8:45 am]

**BILLING CODE 4910–06–P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Transit Administration**

**State of Good Repair Bus and Bus Facilities Discretionary Program Funds**

**AGENCY:** Federal Transit Administration (FTA), DOT.

**ACTION:** State of Good Repair Bus and Bus Facilities program announcement of project selections.

**SUMMARY:** The U.S. Department of Transportation’s (DOT) Federal Transit Administration (FTA) announces the selection of projects funded with Section 5309 Bus and Bus Facilities program funds in support of the State of Good Repair (SGR) Initiative, which was announced in the State of Good Repair Initiative Notice of Funding Availability on May 4, 2010. The SGR Initiative makes funds available to public transit providers to finance capital projects to replace, rehabilitate, and purchase buses and related equipment and to construct bus-related facilities, including programs of bus and bus-related projects for assistance to subrecipients that are public agencies, private companies engaged in public transportation, or private non-profit organizations. Additionally, the SGR Initiative makes funds available for Transit Asset Management systems, which is a systematic process of operating, maintaining, improving, and expanding physical assets effectively throughout their life cycles.

**FOR FURTHER INFORMATION CONTACT:** Successful and unsuccessful applicants should contact the appropriate FTA Regional office (Appendix) for specific information regarding applying for the funds or proposal specific questions. For general program information on the Bus and Bus Facilities program, contact Kimberly Sledge, Office of Program Management, at (202) 366–2053, *e-mail:* [kimberly.sledge@dot.gov](mailto:kimberly.sledge@dot.gov), or Henrika Buchanan-Smith, Office of Program

Management, at (202) 366–2053, *e-mail:* [henrika.buchanan-smith@dot.gov](mailto:henrika.buchanan-smith@dot.gov).

**SUPPLEMENTARY INFORMATION:** A total of \$776,474,305 was available for FTA’s SGR Initiative. A total of 422 applicants requested \$4.06 billion, indicating significant demand for funds. Project proposals were evaluated based on the criteria detailed in the May 4, 2010 Notice of Funding Availability. The projects selected and shown in Table 1 will provide funds to help maintain the nation’s public transportation bus fleet, infrastructure, and equipment in a state of good repair.

Grantees selected for competitive discretionary funding under the SGR Initiative should work with their FTA regional office (Appendix) to finalize the application in FTA’s Transportation Electronic Award Management system, (TEAM) so that funds can be obligated expeditiously. Funds must be used for projects detailed in the proposal and for the purposes specified in the project descriptions in the table. A discretionary project identification number has been assigned to each project for tracking purposes and must be used in the TEAM application. Selected projects have pre-award authority as of October 4, 2010. Post-award reporting requirements include submission of the Federal Financial Report (FFR) and Milestone Report in TEAM as appropriate (*see* FTA.C.5010.1D).

The grantee must comply with all applicable Federal statutes, regulations, executive orders, FTA circulars, and other Federal administrative requirements in carrying out the project supported by the FTA grant. Funds allocated in this announcement must be obligated in a grant by September 30, 2013.

Issued in Washington, DC, November 23, 2010.

**Peter Rogoff,**  
*Administrator.*

**APPENDIX**

[FTA Regional and Metropolitan Offices]

<p>Mary E. Mello, Regional Administrator, Region 1—Boston, Kendall Square, 55 Broadway, Suite 920, Cambridge, MA 02142–1093, Tel. 617–494–2055. States served: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont.</p>	<p>Robert C. Patrick, Regional Administrator, Region 6—Ft. Worth, 819 Taylor Street, Room 8A36, Ft. Worth, TX 76102, Tel. 817–978–0550. States served: Arkansas, Louisiana, Oklahoma, New Mexico, and Texas.</p>
<p>Brigid Hynes-Cherin, Regional Administrator, Region 2—New York, One Bowling Green, Room 429, New York, NY 10004–1415, Tel. 212–668–2170. States served: New Jersey, New York ..... New York Metropolitan Office, Region 2—New York, One Bowling Green, Room 428, New York, NY 10004–1415, Tel. 212–668–2202.</p>	<p>Mokhtee Ahmad, Regional Administrator, Region 7—Kansas City, MO, 901 Locust Street, Room 404, Kansas City, MO 64106, Tel. 816–329–3920. States served: Iowa, Kansas, Missouri, and Nebraska.</p>