



U.S. Department  
of Transportation

**Federal Railroad  
Administration**

Administrator

1200 New Jersey Avenue, SE  
Washington, DC 20590

MAR - 7 2012

Mr. Jeff Martin  
Chief Logistics Officer  
National Railroad Passenger Corporation  
30<sup>th</sup> Street Station  
Box 12, 5<sup>th</sup> Floor, SE Tower  
Philadelphia, Pennsylvania 19104

Re: Request for a Buy American Exemption for Acela Power Car Central Block Assemblies

Dear Mr. Martin:

I am responding to your July 22, 2011 letter requesting an exemption from 49 U.S.C. § 24305(f), the domestic buying preference statute applicable to the National Railroad Passenger Corporation ("Amtrak"). Amtrak's domestic buying preference statute requires Amtrak to purchase manufactured articles with a value exceeding \$1 million dollars that are manufactured in the United States substantially from articles, material, and supplies mined, produced, or manufactured in the United States. "Substantially" has been interpreted by Amtrak and Federal Railroad Administration (FRA) to mean that the manufactured articles in Amtrak's purchases must have domestic component content greater than fifty percent (by cost). See 48 C.F.R. § 25.003 (domestic end product means—"An end product manufactured in the United States, if— (i) The cost of its components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components.").

Amtrak has requested this exemption in order to purchase from Alstom Transportation Inc. ("Alstom"), two Power Car Central Block Assemblies ("Central Blocks") for the Acela high speed train sets. Amtrak uses 20 Acela high speed train sets to provide service along the Northeast Corridor between Washington, D.C. and Boston, Massachusetts. There are 2 Power Cars per Acela train sets, thus 40 Power Cars are required for service. The purchase of two additional Central Blocks would provide two spares in order to minimize the down time for a train set if one fails. Amtrak's passenger rail operations in the Northeast Corridor are an important component of the transportation system in the northeast and the Acela equipment is the cornerstone of that service.

The Central Blocks (the price of which will exceed \$1 million dollars) will be manufactured by Alstom in Hornell, New York, but more than 50 percent of the Central Blocks' internal content by cost must come from France.

After carefully reviewing Amtrak's request, I have determined that Amtrak's request is consistent with the statutory requirements and should be granted. However, as has been discussed with Amtrak, this waiver is not unconditional. The FRA expects that Amtrak will continue to collaborate with Alstom and the U.S. Department of Commerce, National Institute of Standards and Technology, Hollins Manufacturing Extension Program (NIST-MEP) on increasing the domestic content of the Central Blocks. Furthermore, future requests for waivers for the Central Blocks will not be granted unless evidence of the required collaboration between Amtrak, Alstom, and NIST-MEP has been documented.

The applicable exemption provision, 49 U.S.C. § 24305 (f)(4)(A)(iii), provides as follows:

On application of Amtrak, the Secretary of Transportation [delegated to the Federal Railroad Administration (FRA) Administrator] may exempt Amtrak from this subsection if the Secretary decides that ... for particular articles, material, or supplies ... the articles, material, or supplies, or the articles, material, or supplies from which they are manufactured, are not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities and are not of a satisfactory quality.

After reviewing Amtrak's request, additional information provided by Amtrak and Alstom, other information gained conducting our own independent investigation, and from ascertaining the opinion of a representative of the NIST-MEP, I find that Central Blocks which would comply with Amtrak's domestic buying preference statute are not currently available from any domestic source.

Amtrak is the only customer for the forty Acela Central Blocks that have ever been produced. The Central Blocks are the heart of the Acela Power Car Propulsion System. The costliest and most significant items making up the Central Blocks are proprietary to Alstom, a French Corporation that originally manufactured the Acela equipment, and cannot be replaced with other manufacturers' equipment due to their technical nature and without a significant amount of retesting and redesign. There also could be operational issues associated with using parts from other manufacturers, as all of this equipment must work together seamlessly to provide the power and control for each Power Car of an Acela train set.

The Central Blocks' most significant components are Power Modules, high speed Power Logic Controllers (PLCs), and Advanced Generic Alstom Transport Electronics (AGATE) controllers. The Power Modules are designed, manufactured, and tested by Alstom in France and cannot be reproduced by another entity due to their intellectual property and proprietary nature. The high speed PLCs and AGATE controllers, which are also Alstom's proprietary design, are not manufactured anywhere else in the world. Furthermore, the source code software which drives these computers is also Alstom's proprietary design. The coding and development of this software is done in France as

well and is not available from any other source in the world, again, due to their proprietary nature.

With the conditions set forth above, I am granting Amtrak's request for an exemption from the domestic buying preference requirements of 49 U.S.C. § 24305(f) to purchase two Central Blocks from Alstom.

Sincerely,

A handwritten signature in black ink, appearing to read "Joseph C. Szabo". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Joseph C. Szabo  
Administrator