

Rail Supply Innovation and Buy America Requirements

The United States rail supply industry is a critical building block to the creation of the next generation of American manufacturing jobs which contribute to and ensure our nation's competitiveness in the 21st century economy and beyond. The rail supply sector is an established economic engine for growth and innovation over the past century, and has a track record of:

- Creating knowledge-based jobs
- Assuring that the latest technologies and a skilled qualified workforce are developed in reinvigorating the U.S. rail manufacturing base while increasing our competitiveness in a global market
- Facilitating more efficient, cleaner and lower-cost passenger travel and freight capacity as an alternative to congested roads and highways
- Reducing dependence on fossil fuels and foreign oil

Under the American Recovery and Reinvestment Act (ARRA), Buy America mandates that all of the iron, steel and manufactured goods used are produced in the U.S. The purpose is to promote U.S. manufacturing and encourage new industry, both of which will help the domestic economy, maintain global economic leadership and create jobs for Americans. However, Buy America does not mandate the purchase of U.S. goods and allows for waivers in cases where American-made products necessary for a project are not readily available. Waivers are also allowed where total project cost is 25 percent more expensive than it would be if imports are used. RSI supports the Buy-America provision in ARRA as well as the flexibility allowed under the law as passed by Congress. The Administration's restrictive interpretation is that 100 percent of the components be made in the United States for final manufactured goods or construction materials to qualify as U.S. made. These domestic content rules present new and serious compliance issues for suppliers that plan to supply materials to ARRA-funded projects. The goal to maximize the American content of trains sold to the states, Amtrak or other U.S. entities is a legitimate aspiration and laudable goal; however 100 percent Buy America content is unachievable at this time given the lack of demand and sustained level of funding. Currently, the industry is reporting that 60 percent U.S content for passenger cars is achievable and, while in the near future, this may grow to substantially more than 60 percent it shall be less than 100 percent due to the availability of certain subcomponent parts.

The non-recurrent costs required to manufacture high speed trains are very high and the market is small in relative terms. In addition, orders placed by States are small (2-5 train sets) which presents an additional challenge. The result is twofold: States may not get proposals due to the demanding Buy America requirements for such small orders and the manufacturers will be discouraged to start an incremental process to maximize the US content. Until the funding for equipment is guaranteed, manufacturers will be hesitant to commit financial and human resources to transfer technology to the U.S.

Long Term Funding Solutions & Incentives

The federal government can help ease the transition to 100 percent domestic content by providing increased and sustained funding for transit, high speed and intercity passenger rail. The \$8 billion committed to high speed rail through ARRA and the \$2.5 billion provided through the Fiscal Year (FY) 2010 U.S. Department of Transportation appropriations process provides a solid beginning to jump starting our country's passenger rail system. Unfortunately, the recent budget deal eliminated funding for high-speed rail in FY 2011 and took back some \$400 million in FY 2010 funding. Given today's political climate, we cannot deny the challenges this program now faces, however this down payment must be followed with long-term commitment to fully implement the projects receiving ARRA grants while developing new high-speed rail corridors and upgrading existing passenger rail infrastructure. RSI is committed to work with the Administration and Congress on achieving this goal. A long term dedicated sourced of funding would send a signal to rail global suppliers and technology providers seeking to invest in the U.S.

In 2007, the National Surface Transportation Policy and Revenue Study Commission Passenger Rail Working Group estimated that an annual investment of \$8.1 billion was needed to support an improved national rail network through 2050, a figure that included the construction of just one high-speed rail line. Since then, planning and development for several new high-speed rail corridors has advanced aided by ARRA. To ensure adequate funding for our core passenger rail services, the U.S. must commit at least \$10 billion per year to improve its intercity passenger rail network and build new high-speed rail corridors. This investment should target rail corridors with the necessary density, economic activity, and in many cases an existing corridor to better ensure strong ridership on these new services.

RSI supports ensuring long term dedicated sources of funding for high speed and intercity passenger rail through a menu of options. These options could include a combination of federal, state and local funding, public/private partnerships, government-backed infrastructure bonds, tax credits, and private sector investments. Additional options could include providing incentives (i.e. a ten percent cash award) for public agencies that use taxpayer's dollars to buy rail passenger equipment that exceeds a certain percent of domestic content and investment tax credits for those companies that make capital investments to achieve 90 to 100 percent domestic content. The U.S. government has started to get in the game, but it must continue to strategically co-invest with businesses to help them be globally competitive while creating jobs in America.

Clarification of Buy America Standards

RSI recommends clarifying Buy America standards by streamlining the particular differences among provisions specific to Buy American, Federal Transit Administration (FTA), Federal Railroad Administration (FRA) and ARRA funds. Future Buy America policy should be applied consistently and vigorously to transit, high speed and intercity rail and should be enforced by a single office within U.S. DOT. These standards should be made more transparent by posting rules and guidance on a centralized website. Domestic manufacturers should be provided sufficient opportunity to respond to claims that products or materials are insufficiently available or of too high a cost, waiver requests should also be posted for a minimum of 30 days, and within a month after the waiver is granted, the decision and justification should be published in the federal register and made available on a public website. The Office of Management and Budget (OMB) should issue a regular report summarizing the number and value of domestic content waivers, the reasons why the waivers were issued and estimates of total jobs lost as a result. The OMB reports, along with rules, definitions, and other guidance documents, should also be centralized on the same public website.

Additionally, DOT should receive increased support for oversight and enforcement to better hold companies and transit agencies accountable for compliance with domestic content rules. DOT should issue standard accounting practices for measuring domestic content to improve consistency, and provide specific guidance to clarify definitions of domestic content in components and subcomponents, criteria for granting waivers, and instructions on what can be included in product cost calculations.

National Rail Plan

Finally, RSI urges that DOT's National Rail Plan support development of renewed U.S. passenger rail equipment manufacturing industry through a vision for sustained equipment purchases and equipment life-cycle policies that avoid "boom or bust" procurement cycles.

A sound transportation policy and National Rail Plan should embrace a comprehensive approach to high speed rail with a mixed fleet of high, higher and highest speed trains. While the U.S. unquestionably makes the best diesel-electric locomotives in the world, much of the technology for high speed electric trains will mainly come from foreign firms, the DOT must be vigilant in helping to ensure that foreign partners grant true transfers of intellectual property in teaming arrangements to avoid episodic projects that turn American workers into contract manufacturers, final assemblers and painters and testers. In challenging market conditions, leveraging and expanding the existing American workforce and manufacturing capabilities to support U.S. domestic requirements will prosper U.S. industry and the nation's economy overall.

Government must play a key role in a Buy America policy. We need well thought-out policy, consistent enforcement of fair trade policies that level the playing field, and competitive tax laws that reward companies for creating jobs in America and not offshore. Importantly, we need smart, public direct investment in research and development, infrastructure and targeted strategic industries. A long term government commitment to certain, adequate and sustained funding for core public rail transit, intercity passenger networks and additional high speed rail corridors will ensure increased domestic content.

About The Railway Supply Institute (RSI)

The Railway Supply Institute (RSI) is the premier trade association for the rail supply industry, representing the nation's leading companies involved in the manufacture of products and services in the freight car, locomotive, maintenance-of-way, communications and signaling, and transit industries. Since its founding in 1908 RSI and its predecessor organizations have delivered comprehensive marketing, government relations, business development, and standards and technology services to its membership and advocated exclusively on behalf of supplier interests in multiple industry coalitions, legislative bodies and regulatory organizations. For more information visit RSI's website, www.rsiweb.org, or call 202-347-4664.

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Media Contact:
Jan Goebel
JG Communications LLC
703-743-9707
janet_goebel@comcast.net