



May 26, 2016

U.S. Department of Transportation
1200 New Jersey Avenue SE
Docket Operations, M-30
West Building, Ground Floor, Room W12-140
Washington, DC 20590

**Re: Federal Transit Administration: Docket Number FTA-2016-0025
Notice of Proposed Buy America Waiver for Minivans**

Dear Administrator Flowers,

On behalf of the Association for Commuter Transportation (ACT) I would like to express our support for the intent of the policy recommendations made in docket FTA-2016-0025 related to a Buy America waiver for minivans. We do, however, have some concerns and a strong need for additional clarification.

ACT is a national association dedicated to providing commuters with options. Vanpooling is an increasingly popular mode of public transportation that is able to serve commuters in both large cities and rural regions. Vanpooling across the nation has nearly doubled over the last decade, expanding public transportation options, access to jobs, and conserving energy.

On November 27, 2012, the FTA rescinded a Buy America waiver for minivans after confirming that the Vehicle Production Group was starting production of a substantially similar vehicle, the MV-1, in the United States. At that time, the FTA received approximately 836 public comments in response to its notice. A significant number of comments claimed the MV-1 is solely a paratransit vehicle and does not qualify for FTA funding for vanpool services – citing MAP-21 Section 5323(i)... defining a "vanpool vehicle" as a vehicle that has a "...seating capacity of which is at least 6 adults (not including the driver)." The MV-1, with a seating capacity of 6 adults including the driver, may be acceptable for paratransit service, but it does not qualify for FTA-funded vanpool service.

According to the 2013 National Transit Database Report, eighty-three (83) transit agencies and the private providers of public transportation by vanpool under contract to these agencies operate 5,862 minivans in vanpool service. This number represents ~48% of the vehicles currently reported to NTD in vanpool service. In December of 2012, all of these entities were "effectively" precluded from procuring minivans with FTA-funds for the continuation of their existing vanpool services.

The rescission of the waiver in 2012 has had a number of consequences:

1. Many of the minivans currently in operation are being operated past their useful life, as grant sponsors are unable to use Federal funds to procure new minivans.
2. Agencies are procuring large SUVs with less than desirable access/egress characteristics compared to minivans.

ACT is pleased by the action that has been taken by FTA, however several questions remain:

- 1) The Notice of Proposed Buy America Waiver for Minivans claims there are at least four manufacturers that make non-ADA accessible minivans assembled in the U.S. Based off of the 2016 American

Automobile Labeling Act information referred to on the NHTSA website, we have identified six manufacturers of Multi-Purpose Vehicles (MPV). – Ford, General Motors, Honda, Toyota, Nissan and Mercedes-Benz. However, the 2016 American Automobile Labeling Act information referred to on the NHTSA website does not have a minivan classification, these types of vehicles are referred to as MPVs. The MPV classification includes as many as eighteen (18) Sport-Utility Vehicles (SUV) and only two (2) minivans... all assembled in the United States.

Please identify the four minivans referred to in the notice?

- 2) Following the 2012 waiver rescission, ACT and its members approached several automakers about certifying their vehicles as 'Buy America' compliant. In working through that process, several automakers expressed concerns (noted below) that FTA was unable to address to their satisfaction. Specifically, the manufacturers inquired about non-Buy America statutory requirements which would be "triggered" and apply to their companies, domestically or internationally, if they were to pursue Buy America certification, e.g. civil rights, disadvantaged business enterprise, clean air, clean water, employee protections, etc.

The issues they have raised have not been addressed by this or other guidance. However, this waiver suggests their vehicles can be procured so long as assembly is in the United States.

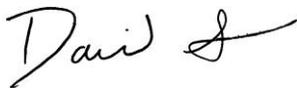
The proposed Buy America waiver suggests that as long as assembly takes place in the US, these vehicles can be procured. Do manufacturers need to make any additional certifications or take any additional action before these vehicles can be procured?

- 3) The notice asks for comments related to annual audits of vehicles rather than an audit being done on a procurement by procurement status, while ACT cannot comment for the automakers, we are in support of this and any policy that would promote more entrants and allow for options in the procurement of mini-vans for vanpooling purposes.

Current Pre-Award and Post-Delivery guidelines and recommendations do not fit for unmodified, mass-produced vans and minivans. Does FTA plan to provide additional guidance on this subject and would it also apply to traditional 9-15 passenger vehicles, which also fit this description.

I appreciate your attention to this matter. If you have any questions, please contact Jason Pavluchuk Pavluchuk@actweb.org 202-285-6414, ACT's government relations specialist. We look forward to your response.

Sincerely,



David Straus
Executive Director