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Docket Management Facility
U.S. Department of Transportation
1200 New Jersey Ave. SE., W12-140
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Re: Comments to Notice of Proposed Rule Making: Geographic Hiring Preferences in Administering Federal Awards, U.S. Department of Transportation, [Docket DOT-OST-2015-0013], RIN 2105, AE38, 2 CFR Part 1201

The Los Angeles County Metropolitan Transportation Authority (hereinafter referred to as Metro) fully supports the Department of Transportation's (DOT) proposal to amend the regulations implementing the Government-wide Uniform Administration Requirements, Cost Principles, and Audit Requirements for Federal Awards to permit recipients and subrecipients to allow geographic-based hiring preferences. As you know, these regulations have not permitted agencies like Metro to require bidders to meet local hiring goals or geographical preferences on federally-assisted contracts.

The historical rationale for this prohibition is that the federal gas tax (18.4 cents per gallon) is collected nationally and therefore all individuals and companies in the United States should have access to any given project. This regulation, however, does not take into account the new reality of how transportation projects are financed, which today, is often through the majority of funds being derived from local dollars. This new reality creates a sound rationale for a change to this Federal law. As a result, in September 2011, the Metro Board of Directors adopted a policy position that recommended amending federal local hire rules to our Agency's successful America Fast Forward Initiative. Metro supports this U.S. DOT Notice of Proposed Rule Making as it:

- Does not require owners to implement a local hire program, but rather allows localities the ability to do so if they desire;
- Provides owners flexibility in determining how "local" is defined;
- Does not mandate specific local hiring goals, but allows localities discretion in determining goals;
- Provides flexibility on whether or not a geographic preference is utilized on rolling stock procurements and allows owners the ability to customize the geographic preferences to their specific needs and market; and

- Provides owners the ability to customize their Program based on their specific market conditions and their federal contracting program.

While the Notice of Proposed Rulemaking is intentionally broad, the benefit of this method is that it encourages innovative approaches that can be compared for best-practices and allows localities the ability to utilize their unique expertise and market conditions in approaching this issue. This accounts for differences in Agency size, contract size, population density and local economic conditions, among other factors, that are unique to each locality. By allowing localities to innovate, we assure a paradigm for demonstrable local success.

Metro has conducted an historical review (summarized below) of our Federal Transit Administration (FTA) approved Project Labor Agreement (PLA) and Construction Careers Policy (CCP) data related to construction projects. We have also reviewed two rolling stock solicitations that include Metro's U.S. Employment Program. The evidence clearly indicates local geographic preferences and targeted hiring has not limited competition or increased costs.

Construction

Metro has been implementing a PLA and CCP with national targeted hiring goals for Federally-financed projects and local hiring goals for locally-financed projects since 2012. Metro's implementation of its PLA and CCP has not resulted in decreased competition on its projects with the 40% targeted economically disadvantaged worker goal by zip code, 10% disadvantaged worker goal and 20% apprentice participation goal. This includes Metro's mega-projects, bid with national targeted hiring goal provisions: the Crenshaw/LAX Transit Corridor Project, Regional Connector Project, and the Westside Subway Extension Project, Section 1. In fact, out of the twelve contracts awarded with PLA/CCP provisions, the number of bids received ranges from three to fifteen, with an average of six bids (rounded). Metro contractors have in all cases met or exceeded the 40% national or local targeted worker PLA goals. Metro has currently identified 11 potential solicitations that may be eligible for the local hire initiatives during the pilot period.

Rolling Stock

For its Rolling Stock solicitations, Metro will propose transforming its FTA approved U.S. Employment Program into a Local Employment Program using the same methodology for evaluation and award.

Metro's U.S Employment Program was applied to two Rolling Stock procurements, a purchase of 235 light rail vehicles and 900 CNG buses. As a result of Metro's U.S. Employment Program, the two Rolling Stock contracts have created nearly 400 new jobs in the U.S. that will generate over \$110 Million in wages and benefits over the life of the contract. Moreover, 60% of

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those jobs are located in Los Angeles County. In addition to new job creation, the final cost of its rail cars came in under its cost estimate, and the unit cost for the new buses was \$30,000 less than other procurements of a similar scope, evidencing that a jobs incentive program need not have a negative cost impact on competition or the price of a rolling Stock procurement.

Although Metro has identified four Rolling Stock solicitations that may be eligible for the local hire initiative during the pilot period, Metro does not recommend applying a responsiveness requirement or condition of award for the Local Employment Program on all four of its solicitations. Instead, Metro will assess the market conditions for each solicitation to ensure that the local/targeted hiring preference does not negatively impact competition.

It is important to reiterate that Metro fully embraces the spirit and intent of the Notice of Proposed Rulemaking relative to geographic and local preferences and is available to respond to any questions relative to its implementation of the PLA/CCP and U.S. Employment Program.

Sincerely,



Arthur T. Leahy
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cc: Stephanie Wiggins, Executive Director, Vendor/Contract Management
Michael Harkins, Deputy Assistant General Counsel for General LAW