



MAYOR ASHLEY SWEARENGIN

June 19, 2012

The Honorable Ray LaHood
Secretary
United States Department of Transportation
1200 New Jersey Avenue, SE
Washington, DC 20590

Re: California High Speed Rail "National Targeted Hiring Program" in Project Labor Agreements

Dear Secretary LaHood:

Over the last year, a consortium of officials from the City of Fresno, the County of Fresno, the Fresno Council of Governments, and the Fresno Regional Workforce Investment Board, collectively known as "Fresno Works" submitted a draft proposal to the California High Speed Rail Authority (CHSRA) known as the "Targeted Unemployment Worker/First Source Transparency" proposal. The proposal was drafted to create a mechanism in which the CHSRA could ensure that a modest percentage of jobs associated with the construction of high speed rail would be from areas of high unemployment and that all hiring methods by CHSRA be conducted in a transparent way.

On January 6, 2012, the CHSRA received a letter (copy attached) from then FRA Acting Chief Counsel Michael T. Haley in which he noted that, while the Fresno Works targeted hiring proposal did not specifically violate federal law, it seemed to conflict with the general disapproval by the U.S. Department of Transportation (US DOT) and FRA "of local or in-state geographic preferences because of the potential negative impacts on open and competitive procurement procedures." As a result, the CHSRA convened a subcommittee of members to study the Proposal to ensure it complies with Federal and State law.

Since that time, it has come to my attention that Mr. Dorvel R. Carter, Chief Counsel of the Federal Transit Administration, approved language put forward by the Los Angeles County Metropolitan Transit Administration (LACMTA) and the Los Angeles/Orange Counties Building and Construction Trades Council which is very similar to the Fresno Works targeted hiring program. This language focuses on establishing targeted hiring criteria in project labor agreements.

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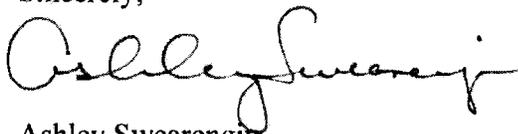
In his letter dated February 7, 2012, (copy attached) Mr. Carter noted that:

*"the provisions...covering federally-funded projects set forth hiring preferences that are based on income and other factors, but are not geographically based. As you know, federal regulations explicitly 'prohibits the use of . . . local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preferences.' 49 C.F.R. §18.36(c)(2). **We believe that the approach set forth in the draft...meets the requirements that grantees conduct federally assisted procurements using full and open competition.**" (emphasis added)*

As such, we have modified our initial proposal to more closely comport with the LACMTA language that has been approved by USDOT-FTA and respectfully request that USDOT work with us to institute this revised proposed, the "National Targeted Hiring Program," for the Initial Construction Section of the California High Speed Rail program.

Thank you in advance for your consideration of this matter. I look forward to discussing it with you and your team at your earliest convenience.

Sincerely,



Ashley Swearingin
Mayor

Enclosure(s)

cc: Administrator Joseph Szabo, FRA
Deputy Administrator Karen Hedlund, FRA
Dan Richard, California High Speed Rail
Tom Richards, California High Speed Rail
Jeff Morales, California High Speed Rail
Blake Konczal, Fresno Regional Workforce Investment Board
The Honorable Susan Anderson, Fresno County Board of Supervisors
The Honorable Henry R. Perea, Fresno County Board of Supervisors