

October 9, 2019

**Via First Class Mail &
Via Email: ronald.batory@dot.gov**



Mr. Ronald L. Batory
FRA Administrator
Federal Railroad Administration
U.S. Department of Transportation
1200 New Jersey Avenue, S.E.
Washington, D.C. 20590

RE: Request from National Railroad Passenger Corporation ("Amtrak") for a Waiver from Amtrak's Domestic Buying Preference Requirements for State of Good Repair

Dear Mr. Batory:

National Railroad Passenger Corporation ("Amtrak") is hereby applying for a Waiver from Amtrak's Domestic Buying Requirements found at 49 U.S.C. §24305(f) (the "Amtrak Buy American Act"), to permit the purchase of certain vital equipment needed to support Amtrak's state-of-good-repair (SOGR) Program on the Northeast Corridor (NEC). Specifically, Amtrak would like to purchase the following: one (1) Railbound Tunnel Crane, one (1) Track Laying Machine and eight (8) Two-Man Rail Car Mover with Heavy Duty Crane, Railgear and Rail Car Couplers. Amtrak's justification for this request is set forth below.

Amtrak's Engineering Department's Five Year (FY19 – FY23) Equipment Funding Request as approved by Amtrak's Board of Directors, authorizes the expenditure of [REDACTED] for equipment to address the backlog of SOGR and Steady State program. The equipment included in this waiver request totals [REDACTED] or [REDACTED] of the authorized expenditure. The funding for the Engineering Department's Five Year (FY19 – FY23) Equipment Funding Request is provided by Amtrak's Annual Capital Grant.

The equipment detailed in this waiver request will be fully utilized on the Northeast Corridor (NEC) with two exceptions being, a) one of the Two-Man Rail Car Mover with Heavy Duty Crane, Railgear and Rail Car Couplers will be used on the Michigan line and b) a Two-Man Rail Car Mover with Heavy Duty Crane, Railgear

and Rail Car Couplers and the Railbound Tunnel Crane would be used on the Hudson line for a short term usage if a need would arise.

Amtrak's State-of-Good-Repair Program

As a point of reference, Amtrak's SOGR and Steady State programs are detailed in Amtrak's 2019 Five Year Infrastructure Asset Line Plan (356 pages) which was submitted to Secretary Chao on March 20, 2019. Specifically, pages 37, 38 and 51 address the issues of Steady State, Track Time Availability and SOGR backlog.

Amtrak is the nation's federally-chartered intercity passenger rail operator and infrastructure provider. With safety as the highest priority, Amtrak aims to provide efficient and effective transportation that is trip-time competitive with other intercity travel options. Amtrak owns 2,408 track miles of infrastructure of which 1,169 track miles are the NEC main line, which connects Washington, DC; Philadelphia, PA; New York, NY; and up to the Massachusetts/Rhode Island border, and provides infrastructure for approximately 820,000 trips daily. After decades of underinvestment Amtrak's aging infrastructure is struggling to keep pace with increased demand. While we achieve safe operation each and every day, the reliability of our track, bridges and buildings (B&B), electric traction (ET), and communications and signals (C&S) assets is declining, and our ongoing ability to meet performance targets is increasingly challenging.

To have an effective and efficient Steady State program, Amtrak Engineering must first bring Amtrak infrastructure assets to a SOGR. SOGR means that our assets perform safely, as designed, within their estimated service lives. The ability to maintain infrastructure assets in SOGR with a steady state maintenance approach is only possible if the assets are first brought to SOGR.

Amtrak Engineering has assessed the SOGR backlog at [REDACTED] for infrastructure nationally. Given the advancing age of the infrastructure, historical underinvestment and the precipitous end of life facing major asset classes Amtrak Engineering has set a target of ten years to eliminate the SOGR backlog. While achieving a 10-year schedule for all asset types would likely require more support resources (manpower, equipment and track outages) than are realistically available,

Amtrak is confident that some assets such as Track, can be accomplished in this period if adequate funding is available. Additionally, we've set this aggressive goal because the longer we delay our SOGR efforts, the greater the gap to steady state and risk to reliable service for our customers.

Amtrak's Engineering Department organizes Amtrak's infrastructure into four classes: Track, Bridges and Buildings, Electric Traction, Communications and Signals. The three components of track are rail, ties and ballast. These components are integrated and if any are not in a SOGR then track geometry suffers, trains no longer travel at the desired speed, trip time is extended, and ride quality suffers. Each of these consequences negatively impacts revenue, ridership and customer experience.

The safety and productivity of Amtrak employees is directly tied to the equipment they use to do the work. Unlike Class I railroads, Amtrak employees work adjacent to tracks with speeds approaching 125 miles per hour.

The equipment that is the subject of this waiver (one (1) Railbound Tunnel Crane, one (1) Track Laying Machine and eight (8) Two-Man Rail Car Mover with Heavy Duty Crane, Railgear and Rail Car Couplers) will be used to repair and maintain Amtrak's Track Infrastructure Asset. It and the bases for Amtrak's waiver request are addressed more fully below.

Railbound Tunnel Crane (Penn Station Turnout Replacement System)

On a daily basis, New York Penn Station handles over 1,300 train moves carrying 350,000 people on Amtrak, New Jersey Transit and Long Island Railroad (LIRR) trains. The track structure consists of 87 turnouts, including 34 slip switches, each equivalent to four conventional turnouts, totaling 219 turnouts. It is Amtrak's busiest station on the Northeast Corridor with 21 tracks fed by seven tunnels serving Amtrak, NJ Transit and LIRR.

Currently, there are 255 open findings recorded from Track Inspections of turnout components. In addition to Track Inspections, Amtrak Engineering Operations has logged 475 incidents resulting in over 5,500 minutes of train delays since July 2017. The ability to maintain and improve the condition of these assets and improve the reliability of the infrastructure is dependent on our ability to replace assets efficiently. To sustain current levels of service and at the same time make progress towards achieving SOGR, the outages at PSNY for infrastructure work must be minimized to the greatest extent possible.

Penn Station New York (PSNY) turnout replacements require the most extensive outages allowable in the station. It takes two full 55-hour outages to complete a turnout replacement. One of the major contributors to the length of time required and the complexity of the job is a lack of available adjacent track access. The proposed [REDACTED] Crane System [REDACTED] will increase productivity to allow the replacement of a turnout during one 55-hour track possession.

Currently, Amtrak is replacing turnouts in PSNY with a 1994 built [REDACTED] crane which is well tested under the extreme production requirements of PSNY; however, after 25 years its reliability has decreased significantly, and it lacks the remaining components of the system upon which Amtrak is relying to replace one turnout per 55-hour track possession.

In May 2019, Amtrak issued a Request for Proposal (RFP) for one (1) Railbound Tunnel Crane. The RFP was issued to four offerors including [REDACTED] who represents [REDACTED]. Additionally, the RFP was posted to Amtrak's website.

Proposals were received from three offerors including [REDACTED] who represents [REDACTED]. One offeror declined to submit a proposal.

The proposals were evaluated on compliance with the technical specifications, previous relevant and successful experience in providing similar supplies, pricing and delivery. The Railbound Tunnel Crane are interrelated units that function as one complete system.

The Technical Evaluation Committee evaluated the three proposals in accordance with the terms of the RFP and concluded that the only solution that met the requirements of the specification was the one offered by [REDACTED]. Each of these proposals is discussed more fully below.

Offeror One:

The first offeror submitted a proposal for a [REDACTED], which included:

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

- [REDACTED]

Reason for Non-Selection:

“Specification Section 1.22 The Crane shall be capable of lifting panelized switch panels weighing up to 33,000 lbs. and 68 feet in length over the front axle without contacting the crane. This weight does not include the tare weight of the lifting fixtures to be provided by the Contractor. The Crane must be equipped to maneuver the assembled switch panels and lifting fixtures including hoisting them off the transport car, rotating them to a horizontal position or other position necessary to clear platforms, signal masts, catenary towers and other fixed infrastructure for installation and moving with the suspended load up to 1000 feet to the work site and restricting swing and rotation of the load while in transit.

Specification Section 1.24 The crane must be configured in order to enable it to swing itself clear of platform level, including load.”

[REDACTED]

“Specification Section 1.22 The Crane shall be capable of lifting panelized switch panels weighing up to 33,000 lbs. and 68 feet in length over the front axle without contacting the crane. This weight does not include the tare weight of the lifting fixtures to be provided by the Contractor. The Crane must be equipped to maneuver the assembled switch panels and lifting fixtures including hoisting them off the transport car, rotating them to a horizontal position or other position necessary to clear platforms, signal masts, catenary towers and other fixed infrastructure for installation and moving with the suspended load up to 1000 feet to the work site and restricting swing and rotation of the load while in transit.”

[REDACTED]

“Specification Section 1.22 The Crane shall be capable of lifting panelized switch panels weighing up to 33,000 lbs. and 68 feet in length over the front axle without contacting the crane. This weight does not include the tare weight of the lifting fixtures to be provided by the Contractor. The Crane must be equipped to maneuver the assembled switch panels and lifting fixtures including hoisting them off the transport car, rotating them to a horizontal position or other position necessary to

clear platforms, signal masts, catenary towers and other fixed infrastructure for installation and moving with the suspended load up to 1000 feet to the work site and restricting swing and rotation of the load while in transit.

Specification Section 1.24 The crane must be configured in order to enable it to swing itself clear of platform level, including load.”

[REDACTED]

Offeror Two:

The second offeror submitted a proposal for a [REDACTED], which included:

- [REDACTED]
- [REDACTED]
- [REDACTED]

Reason for Non-Selection:

“Not called out specifically in specifications but is a major difference between the offerings.”

[REDACTED]

“Not called out specifically in specifications but is a major difference between the offerings.”

[REDACTED]

“Not called out specifically in specifications but is a major difference between the offerings.”

[REDACTED]

Proposed Awardee: [REDACTED]

The offeror selected for award of a contract, submitted a proposal for a [REDACTED]

Reason for Selection: - [REDACTED] the offeror, proposed for award of the contract submitted a proposal for:

“Specification Section 1.22 The Crane shall be capable of lifting panelized switch panels weighing up to 33,000 lbs. and 68 feet in length over the front axle without contacting the crane. This weight does not include the tare weight of the lifting fixtures to be provided by the Contractor. The Crane must be equipped to maneuver the assembled switch panels and lifting fixtures including hoisting them off the transport car, rotating them to a horizontal position or other position necessary to clear platforms, signal masts, catenary towers and other fixed infrastructure for installation and moving with the suspended load up to 1000 feet to the work site and restricting swing and rotation of the load while in transit.

Specification Section 1.24 The crane must be configured in order to enable it to swing itself clear of platform level, including load.”

- The [REDACTED] crane has the ability to perform work on one track without fouling the adjacent track opposite the work location and can perform work directly before the crane without fouling either adjacent track. Additionally, the TEC noted the following:

“Specification Section 1.19 The Contractor must design, fabricate, test, and deliver two (2) Switch Panel Handling Fixtures that are specifically configured to enable hoisting and precision handling and placement of Amtrak panelized switch sections within the clearance constraints present at NYP, NRT, ERT, and B&PT. Amtrak switch panel sections are fitted with concrete ties which may weigh in excess of 850 lbs. each.

Specification Section 1.20 The Contractor must design, fabricate, test, and deliver one (1) handling fixture specifically configured to enable hoisting and precision handling and placement of an 80-foot long section of panelized track fitted with concrete ties.”

- The [REDACTED] switch panel lifting beam is designed to mate with lateral beams that retain the panel sections onto the tilt cars. This unitized design enables the beam to

¹ In March 2007, after carefully reviewing Amtrak’s waiver request and conducting its own independent analysis, the FRA came to the conclusion that Amtrak’s request was consistent with the statutory requirements of the Amtrak Buy American Act and granted Amtrak’s waiver request for [REDACTED] equipment. The FRA concluded that Amtrak’s request satisfied the criteria related to the unavailability of equipment in sufficient and reasonably available commercial quantities. The FRA further noted that [REDACTED] is the only manufacturer of this type of equipment, which is manufactured and assembled in [REDACTED]

be quickly attached to the switch panel and releases the panel from the Tilt Car. This innovation removes hours of manual tie down and release of the track panels to and from the tilt cars.

- The lifting beam incorporates hydraulic functionality that enables precise positioning of the track panels. This reduces and possibly eliminates load swing during the critical process of fitting one panel section to the other.

“Specification Section 1.22 The Crane shall be capable of lifting panelized switch panels weighing up to 33,000 lbs. and 68 feet in length over the front axle without contacting the crane. This weight does not include the tare weight of the lifting fixtures to be provided by the Contractor. The Crane must be equipped to maneuver the assembled switch panels and lifting fixtures including hoisting them off the transport car, rotating them to a horizontal position or other position necessary to clear platforms, signal masts, catenary towers and other fixed infrastructure for installation and moving with the suspended load up to 1000 feet to the work site and restricting swing and rotation of the load while in transit.”

- The extendable counter weight utilized by this crane enables infinite possibility of lifting ability. The counter weight is shaped to enable the crane to perform work on an adjacent track with no tail swing.

“Specification Section 1.15 The Crane must be fitted with a rapid-acting leveling system that will ensure that the Crane remains level during hoisting operations and that suspended loads remain level and properly and safely oriented in relation to the right of way and adjacent infrastructure.”

- The [REDACTED] crane utilizes an automatic leveling system and has sufficient lifting capability to handle the switch panel with the boom at zero boom angle. This enables the crane to perform switch panel installs under the catenary system.

“Not called out specifically in specifications but is a major difference between the offerings.”

- [REDACTED] has built 188 cranes of similar design that are utilized on railroads

“Not called out specifically in specifications but is a major difference between the offerings.”

- The [REDACTED] crane has the proven ability to work within the constraints of PSNY.

The cost of the [REDACTED] Rail Crane is [REDACTED]. It incorporates approximately [REDACTED] of US imported components in the manufacture of the crane. The cost of Offeror One is [REDACTED]. Offeror One would not provide the percentage of domestic components. The cost of Offeror Two is [REDACTED]. Offeror Two's domestic components [REDACTED].

If the FRA denies Amtrak's request or fails to make a timely decision, it will have adverse effects on the Penn Station Turnout Replacement System. With competing demands 55-hour track possessions have been limited to 20 during which ten turnouts are replaced. A deficit of twelve (12) per year grows the SOGR backlog and leads to removal of track from service to avoid a recurrence of the summer of 2017. Over the past 2 years, Amtrak has only been able to replace 20 of the 219 turnouts requiring forty-two 55-hour outages, impacting service to Amtrak, NJ Transit and LIRR. The ability to replace only 10 turnouts per year, will prevent Penn Station New York from ever achieving a SOGR.

Track Laying Machine

Maintenance of Way (MOW) equipment is generally depreciated over 25 years for large equipment. New equipment is assigned to large Production gangs and when replaced, passed down second-hand to the Sub-Divisions. Sub-Divisions can tolerate unreliable equipment better than Production, although the general state of Amtrak's equipment puts all gangs at significant risk of equipment failure.

Obtaining sufficient track time for maintenance work is a challenge for all railroads. The optimal solution to delivering increased steady state production while minimizing the impact on train service is to reduce track possession time in a given block.

New equipment will enable Amtrak to cut its footprint in half. The new Track Laying Machine will be placed on two successive three day, 12-hour shifts with a weekly work schedule of 72 hours versus the current 40 hours. While this approach is new, Amtrak believes it has a high probability of success based on two block possession and the additional freight and motive power capacity. The eighty percent (80%) increase in work time will produce a fifty percent (50%) increase in steady state units.

The new Track Laying Machine is required to address the NEC's concrete tie condition. The NEC has three million concrete ties which are projected to have a 40

to 50-year life; one million Santa Fe San Vel concrete ties were installed between 1978 and 1982 and thus are on the verge of needing replacement.

Furthermore, during the 1990's Amtrak installed 1.4 million Rocla concrete ties which began failing at an accelerated rate in 2004, requiring replacement well before the end of the projected life cycle. To date, 800,000 of these ties have been replaced while the remaining are included in the annual steady state program of 73,000 ties. The NEC and feeder lines have 1.8 million wood ties, a significant portion of which were planned for conversion to concrete when the Rocla issue developed and diverted resources. The MOW Program plans to resume replacing wood ties with concrete ties to provide speed increases on the NEC and feeder corridors as well as improved geometry, ride quality and lower maintenance costs.

Neither the San Vel replacement cycle, nor the Rocla replacement incorporated in the annual steady state program and the conversion of wood to concrete can be achieved with the current equipment.

In August 2018, Amtrak issued a RFP for one (1) Track Laying Machine. The RFP was issued to three offerors including [REDACTED]. Additionally, the RFP was posted to Amtrak's website.

Amtrak received proposals from two offerors including the proposed awardee, [REDACTED]. One offeror declined to submit a proposal.

The proposals were evaluated on compliance to the technical specifications, previous relevant and successful experience in providing similar supplies, pricing and delivery.

After an initial technical review of the unsuccessful offeror's proposal, Amtrak determined that it was not in compliance with Amtrak's technical specification. Amtrak initiated discussions with the offeror to delineate its proposal deficiencies and requested that the offeror submit a revised proposal that met the specification requirements.

The Technical Evaluation Committee thoroughly evaluated the offeror's revised proposal and [REDACTED] original proposal and determined that [REDACTED] met the Amtrak specification requirement as detailed below. The unsuccessful offeror did not. Each of these proposals are discussed below.

Unsuccessful Offeror:

Reason for Non-Selection:

The TEC determined that the unsuccessful offeror submitted a revised proposal that was deficient because of the following:

“Specification Section 4.3.2 Be able to collect removed fasteners and rail anchors, and stockpile them in containers on the Equipment, or concrete tie cars for removal at the concrete crosstie loading depot.”

“Specification Section 4.2.2 Cut-in (begin the track renewal process) and cut-out (end the track renewal process) in one half (1/2) hour or less, for average conditions.”

Not called out specifically in specifications but is a major difference between the offerings.

“Specification Section 4.4.3 Be able to lift or unload sets of thirty (30) wooden or concrete crossties simultaneously without human assistance.”

“Section 4.3.15 Be able to accurately and consistently de-stress rails with induction heaters to a temperature between ninety-five (95) and 115 degrees Fahrenheit prior to applying clips.”

“Specification Section 4.3.11 Handle broken/failed crossties (i.e. crossties with structural damage) on both the conveyor and Gantry systems without human assistance.

Specification Section 4.3.12 Eject broken/failed crossties (i.e. crossties with structural damage preventing movement on conveying system) to either side of the track occupied by the Equipment without human assistance.

Specification Section 4.3.13 Be able to place ejected severely damaged crossties from the conveyor system to the area between the track occupied by the Equipment and the adjacent track without human assistance.”

Not called out specifically in specifications, but is a major difference between the offerings.

Apparent Awardee:

Reason for Selection:

After a thorough evaluation, the solution was selected for award because of the following:

- Gantry Cranes are capable of handling 30 ties as specified. This is important to be capable of improving the production rate and collect OTM simultaneously.

“Specification Section 4.4.3 Be able to lift or unload sets of thirty (30) wooden or concrete crossties simultaneously without human assistance.”

- Utilizes a tie pickup wheel which has been commonly used in the industry and is a very reliable design.

Not called out specifically in specifications but is a major difference between the offerings.

- Capable of ejecting broken cross ties from the conveyor without physically handling the tie which will provide considerable safety benefits beyond the current operation.

“Specification Section 4.3.11 Handle broken/failed crossties (i.e. crossties with structural damage) on both the conveyor and Gantry systems without human assistance.

Specification Section 4.3.12 Eject broken/failed crossties (i.e. crossties with structural damage preventing movement on conveying system) to either side of the track occupied by the Equipment without human assistance.

Specification Section 4.3.13 Be able to place ejected severely damaged crossties from the conveyor system to the area between the track occupied by the Equipment and the adjacent track without human assistance.”

- Provides an optimal heating system beyond initial induction heating to include maintenance heating system to better maintain proper neutral temperature.

“Section 4.3.15 Be able to accurately and consistently de-stress rails with induction heaters to a temperature between ninety-five (95) and 115 degrees Fahrenheit prior to applying clips.”

- [REDACTED] was a partner in the design and manufacture of Amtrak's N25001 model P811 Track Laying Machine. This machine has provided reliable service for forty-two years. [REDACTED] has since that time continued to develop and manufacture multiple subsequent generations of Track Laying Machines that are utilized worldwide.

Not called out specifically in specifications but is a major difference between the offerings.

The cost of the Track Laying Machine offered by [REDACTED] is [REDACTED]. It incorporates approximately [REDACTED]. The cost of the Track Laying Machine offered by the Unsuccessful Offeror [REDACTED]. While the Unsuccessful Offeror stated that the domestic content was [REDACTED], the associated dollar was not provided.

The nine passenger railroads that rely on NEC infrastructure to provide rail service to the public all have a vested interest in ensuring the infrastructure can meet current and future service needs. Denial, or not making a timely decision, will have adverse effects on Amtrak's ability to reduce the SOGR backlog and ultimately, negatively impact service and the ability to grow ridership.

Two-Man Rail Car Mover with Heavy Duty Crane, Railgear and Rail Car Couplers

Amtrak faces challenges in delivering a safe, reliable railroad with available resources. Amtrak's Board of Directors approved equipment acquisition required to achieve steady state and SOGR.

Amtrak's market research concluded that [REDACTED] was the sole manufacturer of the Two-Man Rail Car Mover with Heavy Duty Crane, Railgear and Rail Car Couplers which is utilized extensively by freight railroads. In an effort to create competition, Amtrak prepared a bidders list that included [REDACTED] and twelve (12) known truck manufacturers to ascertain if any of these manufacturers had entered the market for the Two-Man Rail Car Mover with Heavy Duty Crane, Railgear and Rail Car Couplers.

In March 2018, Amtrak issued a RFP for twelve (12) different style of trucks that are required to maintain a SOGR which included the Two-Man Rail Car Mover with Heavy Duty Crane, Railgear and Rail Car Couplers. The RFP was issued to thirteen (13) prospective Offerors for a variety of trucks which included the Two-Man Rail Car Mover with Heavy Duty Crane, Railgear and Rail Car Couplers.

Of the proposals Amtrak received, only two (2) Offerors provided a proposal for the Two-Man Rail Car Mover with Heavy Duty Crane, Railgear and Rail Car Couplers. The proposals for the Two-Man Rail Car Mover with Heavy Duty Crane, Railgear and Rail Car Couplers were received from [REDACTED] and another offeror.

After a thorough technical review of the proposals, it was determined that only the [REDACTED] Crane Truck offering met the Amtrak specification requirement of a truck having 50,000lb tractive effort capability (Specification Section 4.5 On-Rail Travel – 50,000 lbs. tractive effort). Additionally, the other offeror's proposal was not accepted by Amtrak because [REDACTED] which left Amtrak very concerned about its use and that concern remains today.

The [REDACTED] Crane Truck costs [REDACTED] each. It incorporates approximately [REDACTED] While under the Amtrak Buy American Act, Amtrak is required to seek a waiver to purchase end products over \$1,000,000 manufactured in [REDACTED] The other Offeror's cost was [REDACTED] each. The domestic content was not obtained, and the cost differential was [REDACTED]

[REDACTED]

Denial or not making a timely decision will have adverse effects on Amtrak's ability of ever achieving a SOGR.

Basis for Waivers

The Amtrak Buy American Act provides at 49 U.S.C. §24305(f)(A)(4)(iii) that upon application from Amtrak, the Secretary of Transportation may exempt Amtrak from application of its statute if the end products that Amtrak proposes to acquire 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 three competitive requests for proposal, Amtrak has determined that the Railbound Tunnel Crane, Track Laying Machine and Two-Man Rail Car Mover with Heavy Duty Crane, Railgear and Rail Car Couplers sought by Amtrak and meeting its technical requirements are not available domestically. Accordingly, for the foregoing reasons, Amtrak hereby requests that it be granted an exemption from the its Buy American Statute to purchase these items as described herein.

Please contact [REDACTED] or me should you have any questions concerning this matter. [REDACTED] can be reached at [REDACTED], and I can be reached at [REDACTED].

Respectfully,



Mark Vierling
Vice President – Procurement & Logistics
Amtrak

Copy:

