



U.S. Department
of Transportation
**Federal Transit
Administration**

REGION IX
Arizona, California,
Hawaii, Nevada, Guam
American Samoa,
Northern Mariana Islands

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Mr. Joe G. Meer.
General Manager
Morongo Basin Transit Authority
62405 Verbena Road
Joshua Tree, CA 92252

APR 01 2010

Re: Buy America Non-Availability Waiver for
2010-11 Model Year Minivans

Dear Mr. Meer:

This is in response to your January 20, 2010 request for a non-availability waiver of the Buy America rule as applied to the procurement by the CalAct-MBTA Vehicle Purchasing Cooperative (Cooperative) of 2010-11 Model Year Minivans.

The Federal Transit Administration's (FTA) general requirements concerning domestic preference for the procurement of manufactured products are set forth in 49 U.S.C. §5323(j). Under 49 U.S.C. §5323(j)(2)(B), those requirements shall not apply if the item or items being procured are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality. The implementing regulation provides that, "[it] will be presumed that the conditions exist to grant this non-availability waiver if no responsive and responsible bid is received offering an item produced in the United States." 49 C.F.R. §661.7(c)(1).

According to the information you provided, the Cooperative publicly solicited for proposals on low floor minivans and received no responsive and responsible bids offering minivans manufactured in the United States. In your letter you also stated that low floor conversion minivans are only produced on the Chrysler chassis and Chrysler has moved their production to Windsor, Ontario, Canada.

Accordingly, the Cooperative represents that the vehicles are not produced in sufficient and reasonably available quantities of a satisfactory quality in the United States. Based on the information you have provided, I have determined that the grounds for a "non-availability" waiver exist. Therefore, pursuant to the provisions of 49 U.S.C. §5323(j)(2)(B), a waiver is hereby granted for the above-referenced 2010-11 Model Year Minivan contract.

If you have any questions, please do not hesitate to contact me at (415) 744-3133.

Sincerely,

Renee M. Marler
Regional Counsel