



Committee on Transportation and Infrastructure
U.S. House of Representatives
Washington, DC 20515

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Ranking Member

Katherine W. Dedrick, Staff Director

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September 21, 2022

The Honorable Eric Soskin
Inspector General
United States Department of Transportation
1200 New Jersey Avenue, SE
Washington, DC 20590

Dear Mr. Soskin:

We are writing to you with concerns regarding the Southeastern Pennsylvania Transportation Authority's (SEPTA) compliance with the Federal Transit Administration's (FTA) Buy America requirements. It has come to our attention that the state-owned China Railway Rolling Stock MA Corporation (CRRC MA) is fully building passenger railcars in China and plans to ship them to SEPTA—apparently in contrast with FTA's Buy America requirements for rolling stock procurement.¹ As such, we request that the United States Department of Transportation Inspector General (DOT IG) initiate a review of SEPTA's ongoing contract with CRRC MA to ensure compliance with FTA's Buy America standards.

SEPTA awarded a \$138 million contract to CRRC MA for the delivery of 45 multi-level coaches in 2017.² CRRC MA was initially required to deliver the first cars in 2019 but these were delayed to 2023.³ CRRC MA is a subsidiary of CRRC Corporation Limited (CRRC),⁴ an entity previously designated as a company tied to the Chinese military by the Department of Defense (DOD) as part of a DOD effort to highlight and counter China's Military-Civil Fusion

¹ Thomas Fitzgerald, *A first glimpse of SEPTA's new double-decker Regional Rail cars, under construction in China*, PHILA. INQUIRER, July 20, 2022, available at <https://www.inquirer.com/transportation/septa-regional-rail-double-decker-coaches-china-covid-delays-20220720.html>.

² *Septa Board Approves Purchase of Multi-Level Coaches for Regional Rail*, SEPTA (last visited Aug. 8, 2022), available at <https://www5.septa.org/septa-board-approves-purchase-of-multi-level-coaches-for-regional-rail/>.

³ Michael Tanenbaum, *Delayed by the pandemic, SEPTA marks progress in plans for double-decker Regional Rail trains*, PHILLY VOICE (July 21, 2022), available at <https://www.phillyvoice.com/septa-double-decker-trains-regional-rail-2023-china-crrc-locomotives/>.

⁴ *See Back to the Future Returning Manufacturing to Springfield, Massachusetts*, CRRC MA (last visited Aug. 8, 2022), available at <https://www.crrgc.cc/ma>.

development strategy.⁵ CRRC has also come under scrutiny for the potential use of child labor within its source material supply chain.⁶

Over the past eight years, CRRC MA has secured more than \$2.6 billion in United States taxpayer-supported transit contracts to provide passenger railcars for the cities of Philadelphia, Boston, Chicago, and Los Angeles.⁷ Congress was so concerned with these taxpayer-funded orders, it passed the *Transportation Infrastructure Vehicle Security Act* (TIVSA) as part of the *National Defense Authorization Act* in 2019 to ensure additional taxpayer dollars wouldn't go to companies that are State-Owned Enterprises (SOEs) like CRRC MA. TIVSA bans Federal taxpayer dollars from being used to purchase rolling stock—railcars or buses—from foreign state-owned or controlled companies. Although TIVSA was passed after SEPTA's CRRC MA contract, the public transportation authority still must comply with FTA's Buy America requirements.⁸

According to FTA's Buy America requirements, the cost of the components and subcomponents for rolling stock produced in the United States must total more than 60 percent for fiscal year (FY) 2016 and FY 2017; more than 65 percent for FY 2018 and FY 2019; and more than 70 percent for FY 2020 and beyond.⁹ In addition to the components and subcomponents requirement, final assembly for rolling stock must occur in the United States.¹⁰ CRRC has claimed that it sources 70 percent of the total cost of railcar components from manufacturers in the United States.¹¹ This claim has been echoed by press affiliated with Chinese state media.¹² However, a recent report by the Philadelphia Inquirer (Inquirer) gives reason to speculate about the accuracy of that claim.

The Inquirer reported that the first cars from the SEPTA–CRRC MA contract were being built in China.¹³ The photos published alongside the story appear to show nearly completed

⁵ Press Release, DOD Releases List of Additional Companies, In Accordance with Section 1237 of the FY99 NDAA (Jan. 14, 2021), available at <https://www.defense.gov/News/Releases/Release/Article/2472464/dod-releases-list-of-additional-companies-in-accordance-with-section-1237-of-fy/>; QUALIFYING ENTITIES PREPARED IN RESPONSE TO SECTION 1237 OF THE NDAA FOR FY1999 (2020), https://media.defense.gov/2020/Aug/28/2002486659/-1/1/1/LINK_2_1237_TRANCHE_1_QUALIFYING_ENTITIES.PDF.

⁶ See Jason Laughlin, *SEPTA's new train car manufacturer scrutinized for using supplies mined by children*, PHILA. INQUIRER, Nov. 22, 2019, available at <https://www.inquirer.com/transportation/crrc-child-labor-madagascar-mica-septa-rail-car-train-transit-20191122.html>.

⁷ Faiz Siddiqui, *China's state-owned rail-car builder looks close to bidding on Metro contract; also eyeing N.Y. subway work*, WASH. POST, Feb. 11, 2019, available at https://www.washingtonpost.com/local/trafficandcommuting/chinas-state-owned-rail-car-builder-looks-close-to-bidding-on-metro-contract-also-eyeing-ny-subway-work/2019/02/11/77c6da4c-2a53-11e9-984d-9b8fba003e81_story.html.

⁸ See 49 U.S.C. § 5323(j).

⁹ *Id.*

¹⁰ *Id.*

¹¹ See *Commitment to U.S. Marketplace*, CRRC SIFANG AMERICA INC. (last visited Aug. 22, 2022), available at <https://www.crrcsifangamerica.com/>.

¹² @shen_shiwei, TWITTER (June 7, 2022, 9:38 PM), https://twitter.com/shen_shiwei/status/1534349180575092737.

¹³ Thomas Fitzgerald, *A first glimpse of SEPTA's new double-decker Regional Rail cars, under construction in China*, PHILA. INQUIRER, July 20, 2022, available at <https://www.inquirer.com/transportation/septa-regional-rail-double-decker-coaches-china-covid-delays-20220720.html>.

railcars.¹⁴ Furthermore, the Inquirer article states that CRRC MA is planning to ship finished shells for the passenger cars to Massachusetts for final assembly.¹⁵ In other words, the article raises questions about how complete these cars are when they arrive in the United States.

In light of the Inquirer's article, we are concerned whether CRRC MA has met the Buy America requirements over the course of this contract so far and whether CRRC MA will be able to meet these requirements as the contract progresses. Accordingly, we request that the DOT IG initiate a review and further specifically examine:

1. How FTA and SEPTA are certifying CRRC MA's adherence to FTA's Buy America requirements.
2. How FTA and SEPTA determine the total value of foreign components for the purpose of the Buy America requirements and if any foreign components in the CRRC MA contract are undervalued against their domestic market rate in the United States.

We appreciate your attention to this matter and respectfully request a response in writing no later than October 5, 2022. If you have any questions regarding this request, please contact Cheryle Tucker, Staff Director, Subcommittee on Highways and Transportation at (202) 225-3562.

Sincerely,



Sam Graves
Ranking Member
Committee on Transportation
and Infrastructure



Rodney Davis
Ranking Member
Subcommittee on Highways
and Transit



Eric A. "Rick" Crawford
Ranking Member
Subcommittee on Railroads,
Pipelines, and Hazardous Materials

¹⁴ *Id.*

¹⁵ *Id.*