



June 20, 2023

Katherine Andrews, Associate General Counsel
Amalgamated Transit Union
10000 New Hampshire Avenue
Silver Spring, MD 20903
Email: 13c@atu.org

Scott Drainville, Chief Executive Officer
Hillsborough Area Regional Transit Authority
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Tampa, FL 33605
legranda@gohart.org

RE: DETERMINATION
FOR PENDING FTA GRANT APPLICATIONS
Hillsborough Area Regional Transportation Authority (HART)
FL-2023-020; FL-2023-022; and FL-2023-024

Dear Ms. Andrews and Mr. Drainville:

This is to provide the Department of Labor's determination of outstanding issues not resolved by the Hillsborough Area Regional Transportation Authority (HART) and the Amalgamated Transit Union, Local 1593 (ATU) through negotiations ordered by the Department, which concluded on June 14, 2023.

In sum, ATU objected to certification on the basis that "[CS] 256 precludes Hillsborough Area Regional Transit Authority (HART) from preserving collectively bargained rights as required by 49 U.S.C. § 5333(b)(2)(a) and from continuing collective bargaining rights as required by 49 U.S.C. § 5333(b)(2)(b)." The Department considered the ATU objection in accordance with the Guidelines at 29 C.F.R. § 215.3 and determined that the legislative changes required by CS 256 jeopardized the grantee's ability to comply with its previously certified protections and continue its eligibility for federal assistance, subject to compliance with 49 U.S.C. § 5333(b). As such, the Department determined that the ATU objection was sufficient, in that it concerned change in legal circumstances that may materially affect the rights or interests of transit employees. The Department then ordered the parties engage in negotiations or discussion to resolve the dispute.

Upon completion of their negotiations, both HART and ATU submitted proposals to the Department, dated June 14, 2023. These proposals both ask that the Department promptly issue a final decision. The parties request that the Department notify the HART that in light of CS 256, HART's protective arrangement covering mass transit employees does not meet the requirements of 49 U.S.C. § 5333(b) and that the application of CS 256 in full to employee organizations which

represent employees at HART would jeopardize HART's continued eligibility to receive Federal Transit Administration funding.

The parties' June 14, 2023 proposals contemplate that upon receipt of the Department's determination, HART will request a waiver from PERC for "(a) The prohibition on dues and assessment deductions provided in s. 447.303(1); (b) The requirement to petition PERC for recertification; and (c) The revocation of certification provided in s. 447.305(6) and (7)." Additionally, the parties seek confirmation from the Department that if the PERC issues the waiver authorized by the statute, HART will be able to comply with the requirements of 49 U.S.C. § 5333(b) and HART will continue its eligibility for Federal Transit Administration funding.

The Department determines the legislative changes required by CS 256 prevent HART from complying with its previously certified protective arrangements covering mass transit employments and the requirements of 49 U.S.C. § 5333(b), and jeopardizes HART's continued eligibility to receive Federal Transit Administration funding. HART must obtain a waiver from the PERC exempting compliance with:

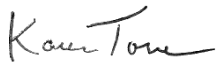
- (a) The prohibition on dues and assessment deductions provided in § 447.303(1);
- (b) The requirement to petition the commission for recertification; and,
- (c) The revocation of certification provided in § 447.305(6) and (7)

in relation to all employee organizations that have been certified as a bargaining agent to represent mass transit employees at HART, including, but not limited to, Amalgamated Transit Union Local 1593 and International Brotherhood of Teamsters Local 79.

In the event that a waiver is obtained and submitted to the Department, the Department will issue final certifications that include the waiver as part of its protective arrangements for any pending grant applications. The Department will also include the waiver as part of the protective arrangements in referrals for all future grants. HART will notify the Department if at any time the waiver expires or becomes inapplicable.

If you have any questions or need any additional information, please email OLMS-DSP@dol.gov, with copy to all parties indicated in this letter.

Sincerely,



Karen Torre, Chief
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cc: see referral