

United States Senate

WASHINGTON, DC 20510

April 24, 2018

The Honorable Elaine Chao
Secretary
U.S. Department of Transportation
1200 New Jersey Avenue, SE
Washington, D.C. 20590

Dear Secretary Chao:

As you are aware, Brightline is a passenger rail system owned and operated by All Aboard Florida (AAF). AAF has previously applied for, and received, allocations of \$1.75 billion in tax-exempt private activity bonds (PABs) to fund the first two phases of the rail system. However, questions have arisen regarding the Department of Transportation's (DOT) approval of these funds, which were created under a law designed for certain highway projects and high-speed passenger trains traveling faster than 150 mph. I write to request further information into DOT's analysis, review and the approval process that led to tax-exempt status being approved for the project's private activity bonds.

DOT played a critical role in allowing AAF to access private activity funds. Qualified projects include "any surface transportation project which receives federal assistance under Title 23, United States Code." While the intent of Congress was to increase private sector investment in transportation infrastructure, it is not clear that Brightline's proposal should have qualified for these funds. For one, the train does not meet the 150 mph threshold required as a high-speed inter-city rail facility. Yet, the DOT determined that AAF qualified for these funds as a highway or surface freight transfer facility because it had received federal assistance under title 23 for federal highways. However, questions remain regarding whether Brightline ultimately should have been eligible to obtain this financing.

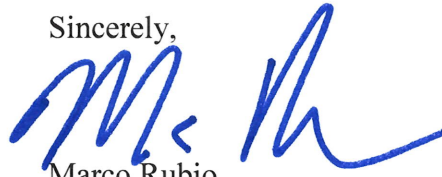
I ask you to address the following questions to provide for increased transparency into DOT's approval.

1. Is DOT's interpretation that any surface transportation project that utilizes Title 23 funds, no matter the dollar amount, would qualify for funding through private activity bonds?
2. Is there precedent for other rail projects that did not meet the 150 mph threshold receiving funding? If so, please identify those projects.
3. In that same vein, has DOT previously denied rail projects based on the 150 mph threshold not being met? If so, please identify those projects.

When federal financing mechanisms are utilized, it is critical that the utmost transparency is provided to taxpayers. AAF's project has raised questions regarding whether federal financing was appropriately used. I urge the Department of Transportation to provide clarity as to the standards applied to determine tax-exempt funding mechanisms.

Thank you for your attention to this matter and I look forward to your prompt response.

Sincerely,

A handwritten signature in blue ink, consisting of stylized initials 'M. R.' followed by a long horizontal flourish.

Marco Rubio
U.S. Senator