

A blurred image of a high-speed train in motion, moving from left to right. The train is white with grey accents. The background consists of horizontal motion blur lines. A thick red curved shape is at the bottom of the image.

**APTA Procurement Session
Roundtable Discussion
Procurement Standard Works Update**

October 4, 2010

BOMBARDIER

Bombardier's participation in Standards Group

- Good opportunity to discuss with Authorities freely, without any specific constraints related to a potential contract within a defined timeframe
- Hope that a standardized approach to bids may reduce costs of bid preparation and negotiation for car builders in upcoming years, as well as total costs of project for Authorities
- It allows to explain Bombardier's approach regarding RFPs terms and conditions, and how they may increase the total price of the Contract

Balance of Risks

- Bombardier believes that it is important that there be the appropriate balance of risks between the car builders and the Authorities.
- An over-burdened contract proposed to car builders may result in:
 - a) Less Competition (Some Car Builders not willing to Bid)
 - b) Many exceptions taken (more difficult for Authority to compare bids)
 - c) Higher prices to the Authorities

Challenges of Car Builders due to the Increasingly Difficult Terms in Recent Years

Such challenges are due to, among others, to:

- Lack of Overall Liability Cap and Consequential and Indirect Damages that are not excluded
- Uncapped Liquidated Damages, Liquidated Damages which are not sole and exclusive and Liquidated Damages that do not necessarily correspond to the true damage sustained by the Authorities
- Warranty Obligations which have become increasingly greater (Evergreen Warranties and Implied Warranties)
- Demands on Intellectual Property Rights are more broad