



A bold voice for transportation workers

November 21, 2022

The Honorable Polly E. Trottenberg
Deputy Secretary
U.S. Department of Transportation
1200 New Jersey Avenue, SE
Washington, D.C. 20590

**RE: Notice That the Build America, Buy America Requirement for Construction Materials Applies Effective November 10, 2022, and Notice of Proposed Waiver of Buy America Requirements for De Minimis Costs, Small Grants, and Minor Components
Docket No. DOT-OST-2022-0124**

Dear Deputy Secretary Trottenberg,

On behalf of the Transportation Trades Department, AFL-CIO (TTD), I am pleased to respond to the U.S. Department of Transportation's (DOT) Request for Information regarding Buy America Requirements for Construction Materials, De Minimis Costs, Small Grants, and Minor Components. TTD consists of 37 affiliate unions representing workers in construction and manufacturing who are directly impacted by Buy America policies.¹ TTD endorses the comments submitted by our affiliate, the United Steelworkers (USW).

TTD credits the Biden administration for expanding and strengthening the reach and application of domestic content preferences, both in its support for the Build America, Buy America Act (BABA) in the Bipartisan Infrastructure Law (BIL) and in executive actions such as Executive Order 14005, Ensuring the Future is Made in All of America by All of America's Workers, among others. We are appreciative of the DOT's continued work to implement the BIL and prioritize BABA.

¹ Attached is a list of TTD's 37 affiliated unions



We echo the relief expressed by USW in thanking DOT for not extending its BABA waiver for construction materials. However, as USW states in their comments, “while this is a step in the right direction, the department is still poised to deliver billions of dollars absent BABA.”

It has been over a year since the BIL was enacted and over 6 months after the BABA statutory implementation deadline. This notice proposes further delays with a significant section of BABA implementation by not applying BABA requirements until well into 2023. It is unacceptable to continue delaying a process that will create American jobs and bolster the American economy.

TTD has long advocated for strong Buy America policy.² The BIL represents a historic step toward making necessary and long-overdue investments across all sectors of our nation’s infrastructure. These investments have been necessary for many years, and the workers are ready, willing, and able to meet the country’s needs.

However, TTD and our affiliate, USW, are concerned about the amount of federal infrastructure money that would be carved out from BABA requirements. The de minimis threshold is deeply concerning. By DOT’s own estimates, less than 5 percent of a typical highway project is iron and steel costs. The proposed de minimis waiver, the lesser of 5 percent or \$1 million, could effectively wipe out any Buy America application for existing iron and steel requirements for federally-aided infrastructure projects of \$20 million or less. Similarly, we oppose DOT’s proposed “Small Grants” waiver for financial assistance awards under the threshold of \$500,000. DOT’s estimates of the impact of this particular waiver are staggering. By its own admission, 48 percent of DOT projects will not be subject to Buy America procurement preferences. This is simply not what Congress intended when passing the BIL and BABA.

These carve outs should be removed. They are simply unacceptable given how much time the administration has had to implement the BIL and BABA requirements. American workers who have been waiting for these opportunities for years deserve better.

We appreciate the opportunity to comment on these issues and look forward to working with DOT in the future.

Sincerely,



Greg Regan
President

² [TTD RESPONDS TO REQUEST FOR INFORMATION ON BUY AMERICA](#)
[TTD RESPONDS TO DOT BUY AMERICA WAIVER](#)
[TRANSPORTATION BUY AMERICA LAWS MUST BE STRENGTHENED](#)