

May 13, 2024

Shailen P. Bhatt  
Administrator  
Federal Highway Administration  
1200 New Jersey Avenue, SE  
Washington, D.C. 20590

**RE: Notice of Proposed Rulemaking on Buy America Requirements for  
Manufactured Products  
Docket No. FHWA-2023-0037**

Dear Administrator Bhatt:

On behalf of the Transportation Trades Department, AFL-CIO (TTD), I am pleased to respond to the Federal Highway Administration's (FHWA) notice of proposed rulemaking (NPRM) regarding Buy America Requirements for Manufactured Products. TTD consists of 37 affiliate unions, including several representing workers in construction and manufacturing who are directly impacted by Buy America policies.<sup>1</sup> In addition to TTD's comments included below, we endorse the comments filed in this docket by our affiliate, the United Steelworkers (USW).

The general applicability waiver discussed in this docket survived for 40 years and has outlived its usefulness. As such, we support the FHWA's proposal to discontinue its General Applicability Waiver of Buy America Requirements for Manufactured Products. Such broad and general waivers of general applicability deny infrastructure opportunities for U.S. manufacturing workers while also obscuring the gaps in our transportation industrial base.

We applaud the Biden administration's Made in America policies that promote American manufacturing. In light of the historic investments that are being made through funding included in the Bipartisan Infrastructure Law (BIL), this waiver is not consistent with the administration's goals or the needs of the American people. It is evident that passage of the Build America Buy America Act (BABA) and the BIL spurred the FHWA's proposal to discontinue its general applicability waiver for manufactured products.

In addition to the proposed discontinuation of the general applicability waiver, the FHWA also proposes specific standards for applying Buy America to manufactured products should the waiver be discontinued. Specifically, the NPRM proposes a new regulatory standard to determine when a manufactured product is "produced in the United States" for purposes of the FHWA's Buy

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<sup>1</sup> Attached is a complete list of the unions affiliated with TTD.

America law at 23 U.S.C. § 313, which would mirror the standard imposed by the BABA statute and its implementing guidance. The NPRM also proposes standards to determine “cost of component” as well as definitions for the terms “component,” “manufactured product,” and “manufacturer” that reflect the standards and definitions included in the BABA implementing guidance.<sup>2</sup>

Notably, the NPRM proposes to add to the Title 23 Buy America regulations new threshold standards for determining the iron and steel products that are subject to the robust “all manufacturing processes” origin standard applicable to such products. We encourage the FHWA to adopt a standard for predominantly iron or steel that is consistent with the definitions for “primarily iron or steel” in various existing federal aid infrastructure program’s domestic procurement preference laws. Furthermore, we urge the FHWA to maintain a threshold standard of 50+% ferrous content by cost, and subject such products and their inputs to the robust “all manufacturing processes” melting standard. In addition, we respectfully request that the FHWA move forward with its proposal to apply its Buy America requirements to manufactured products, including precast concrete, with iron or steel components.

TTD and our affiliates have long embraced the principle that a strong transportation system and strong manufacturing sector are intrinsically linked. To ensure that investments in our nation’s infrastructure will sustain domestic manufacturing and the millions of jobs it supports, we have consistently advocated for the inclusion of strong Buy America policies in federal transportation infrastructure investments.

We appreciate the opportunity to comment on this proposal and look forward to working with the FHWA in the future.

Sincerely,

A handwritten signature in black ink, appearing to read 'Greg Regan', enclosed within a hand-drawn circle.

Greg Regan  
President

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<sup>2</sup> 2 C.F.R. Part 184