

August 12, 2022

The Honorable Polly E. Trottenberg
Deputy Secretary
U.S. Department of Transportation
1200 New Jersey Ave SE
Washington, DC 20590-0001

Subject: Construction Materials Used in Federal Financial Assistance Projects for Transportation Infrastructure in the United States Under the Build America, Buy America Act; Request for Information (Docket No. DOT-OST-2022-0047)

Dear Deputy Secretary Trottenberg:

The American Association of State Highway and Transportation Officials (AASHTO) appreciates the opportunity to provide input to the U.S. Department of Transportation (USDOT) in response to the Request for Information on Construction Materials Used in Federal Financial Assistance Projects for Transportation Infrastructure in the United States Under the Build America, Buy America Act, published on July 28, 2022.

AASHTO is a nonprofit, nonpartisan association representing the state transportation departments (state DOTs) in the 50 states, the District of Columbia, and Puerto Rico. AASHTO represents all transportation modes – air, highway, rail, water, active, and public transportation – and its primary goal is to foster the development, operation, and maintenance of an integrated national transportation system. AASHTO and the state DOTs have a long history of successful partnership and collaboration with USDOT and its modal administrations, and we look forward to continuing this important work. As the key partner to USDOT in the federally-supported, state-administered federal transportation program, AASHTO is pleased to provide the following comments and information.

As mentioned in our June 13, 2022, letter signed by 14 transportation industry organizations to Mr. Mitch Landrieu, Senior Advisor to the President for Infrastructure Coordination, AASHTO and the state DOTs strongly support the expansion of America’s manufacturing capacity, promoting domestic jobs, and encouraging economic growth. At the same time, we firmly believe there must be a deliberative process for implementing the Buy America, Build America (BABA) Act that ensures timely and successful delivery of critical infrastructure projects funded through the Infrastructure Investment and Jobs Act (IIJA).

AASHTO appreciates that USDOT listened to concerns regarding potential delays and anticipated disruptions to project delivery by providing a temporary, 180-day waiver for the new category of construction materials. However, states continue to have significant concerns

regarding the readiness of industry for this transition and the tremendous potential near-term negative impact on the delivery of needed transportation projects in communities around the country. Additional preparatory work – including robust market research into the availability of American-made goods in the broad cross-section of materials covered by the new requirements – needs to be undertaken at the federal level to ensure a less disruptive transition to American-made products, as well as to provide time for adjustments in the sourcing of listed construction materials.

AASHTO asserts that it is in the public interest that critical infrastructure projects intended to improve mobility and access for the American public not be disrupted while transportation agencies continue to make good-faith efforts to integrate the new Buy America requirements into their program and project delivery processes.

GENERAL COMMENTS

Focus on Specific Construction Materials

The IJA repeatedly refers to “common construction materials” in reference to the new Buy America requirements, and AASHTO agrees that USDOT should focus not only on the most “common” materials used in transportation infrastructure projects, but on construction materials that will actually move the needle when it comes to the creation of American manufacturing jobs. The list of materials referenced within the law – specifically, “non-ferrous metals” and “plastic” – could be interpreted to include an extremely wide range of materials and products, many of which are niche products whose demand in transportation construction is not great enough to spur the expansion of American industry, or whose manufacturing is restricted in this country due to environmental and other regulations. To be effective in implementing the new requirements and to achieve the outcomes they are intended to produce – i.e., American jobs, increased American industry, and the better outcomes (e.g., environmental, worker, and workplace safety outcomes) that American manufacturing embodies as compared to foreign manufacturing – the materials subject to the new Buy America requirements need to be those which are commonly/frequently used, and those whose use is substantial enough to encourage American industrial growth.

Ensure Long-Term Goals Don’t Negatively Impact Short-Term Job Security

In addition to focusing on a select few construction materials, USDOT needs to ensure that the emphasis on creating jobs in the *manufacturing* industry – a longer-term goal that will take several years to achieve – does not unintentionally and negatively impact American jobs in the *construction* industry in the short-term, which is a distinct possibility if project delivery is disrupted by a rushed or sudden transition to new requirements. With this in mind, it is imperative that a streamlined process for reviewing proposed waivers be established, as – unless markets are bolstered in advance of the implementation deadline – supplies, availability, and sourcing will become a challenge in the near term as American material sources ramp up to meet demand.

Construction Materials vs. Manufactured Products

The Office of Management and Budget (OMB) memo, M-22-11, dated April 18, 2022, states that all materials and products used in transportation construction need to be categorized into one of three buckets: steel/iron, manufactured products, or construction materials. It further states that:

“...items that consist of two or more of the listed materials that have been combined together through a manufacturing process, and items that include at least one of the listed materials combined with a material that is not listed through a manufacturing process, should be treated as manufactured products, rather than as construction materials.” (p. 14)

Currently, items categorized as “manufactured products” are not subject to Buy America requirements due to a waiver established in the 1980s. However, some of the items listed as “construction materials” in IJJA appear to be manufactured products. Fiber-optic cable is listed as a “construction material,” but this product is analogous to copper signal cable and many other types of cables, which may include a listed construction material but is combined with other materials – insulation, casing, protective covering, etc. – that result in the creation of a manufactured product. Also listed are polymer-based materials, which include such products as synthetic fiber-reinforced (cement) composites (FRC), fiber-reinforced polymer (FRP), and polymer concrete, all of which consist of more than one material and, thus, should not be included in the list of construction materials.

States also need clarification on the term “manufactured product,” as well as clarification on the term “manufacturing process,” to ensure they are meeting the intent of the Buy America requirements and providing accurate information to their contractors and material suppliers. The term “manufacturing,” as defined by various sources, includes:

“1: to make into a product suitable for use. 2a: to make from raw materials by hand or by machinery.” (Merriam-Webster Dictionary)

“...any industry that makes products from raw materials by the use of manual labour or machinery and that is usually carried out systematically with a division of labour. In a more limited sense, manufacturing denotes the fabrication or assembly of components into finished products...” (Britannica)

“Manufacturing is the creation or production of goods with the help of equipment, labor, machines, tools, and chemical or biological processing or formulation.” (Wikipedia)

While these definitions provide some clarity regarding products that are combinations of individual materials, some products are not “manufactured” but are refined from a raw material. AASHTO asserts that these products, when refined or chemically combined to create new materials, should also be considered manufactured products.

Finally, determinations on such overarching issues as “construction materials” vs. “manufactured products” cannot effectively be made state-by-state at the FHWA Division Office level, as this will be challenging for industries that cross state borders to accommodate. Industry needs national consistency in such aspects as the distinction between construction materials and manufactured products, as well as in the determination of compliance with Buy America requirements. A national list of materials subject to Buy America requirements, as well as a national list of Buy America-compliant materials, would greatly assist states in sourcing materials and would assist the Made in America Office in tracking American supply and demand for these materials.

Implementation Challenges and Concerns

Currently, domestic manufacturing is unable to ensure the availability and timely delivery of many materials needed for transportation projects that are underway, resulting in sometimes significant project delays and increased costs for limited materials. Various parts of the country are experiencing availability and supply chain issues with items such as structural steel, guardrail, wire mesh, epoxy products, lumber, and rubber. In addition, many of the construction materials covered by the new Buy America requirements are currently sourced through both domestic and international markets, depending upon the region of the country and the availability of suppliers. Internationally-sourced materials include petroleum-based products (such as PVC conduit and asphalt binder), electronic components, geotextiles (engineering fabrics), glass beads for retroreflective markings, and niche products such as components of movable bridges. A forced transition to the new Buy America requirements will exacerbate delays and increase costs if contractors are forced to abruptly shift material purchases to domestic sources, which in turn may struggle with availability due to limited quantities and high demand. A more gradual approach to the implementation of the new Buy America requirements – including providing support to the manufacturing industry as they work to increase production and establish new material sources within the United States – is needed to encourage industry development while minimizing disruptions to project delivery and ensuring that current supply issues are not intensified.

Robust Market Research is Necessary

The manufacturing base for materials commonly used in transportation infrastructure projects needs to be established to support Buy America objectives *prior* to rigorous implementation of any new requirements. As stated in the Office of Management and Budget (OMB) memo, M-22-11, dated April 18, 2022:

“MIAO [Made in America Office] aims to increase reliance on domestic supply chains and reduce the need for waivers through a strategic process aimed at ... *gathering data to support decision-making to make U.S. supply chains more resilient*; bringing increased transparency to waivers in order to send clear demand signals to domestic producers; and *concentrating efforts on changes that will have the greatest impact.*” [Emphasis added.]

Thus, the administration’s first step in the transition to new Buy America requirements should be to conduct robust research – not simply gather data haphazardly through repeated Federal

Register requests that may or may not produce accurate, comprehensive information – on domestic producers and supply chains, and share that information with infrastructure owners and operators.

As data are collected, USDOT should work with the Made in America Office to gradually draw back the blanket waiver currently in effect and grant targeted, time-limited waivers for materials that are “non-available,” or for which there are domestic sourcing challenges, to help ensure that projects are not delayed while the industry establishes itself or ramps up production to meet demand. The OMB memo states that these time-limited waivers are “designed to ensure that, as domestic supply becomes available, domestic producers will have prompt access to the market created by the program” and suggests defined periods of time for the waivers.

The administration’s next step should be to focus strategically on strengthening the industries that have the greatest potential to grow domestic jobs and increase domestic production and manufacturing, while also ensuring that critical construction materials can be made available to minimize project delivery delays. As American-made construction materials reach reasonable capacity, the waivers can be sunsetted. Concurrently, state DOTs can work to develop comprehensive strategies for compliance, which will necessitate coordinating and modifying procedures and contracts across multiple program areas, as well as with industry partners. Such efforts will include:

- Reviewing guidance and identifying affected programs and program areas;
- Identifying and inventorying affected program policies, procedures, and guidance;
- Developing and issuing updated policies, procedures, and guidance in collaboration with internal and external stakeholders;
- Updating computer systems as necessary to enable compliance monitoring; and
- Capturing and analyzing the data and making necessary adjustments to procedures and systems.

Thus, while AASHTO appreciates the need to move expeditiously to fully implement the Buy America requirements in IIJA and the President’s Executive Order, the practical ability to accomplish the needed data collection, analyses, and implementation processes will take longer than the 180-day time period provided in the current waiver. It is anticipated that FHWA will need at least 12 months to work with state DOTs to solicit comments and address definitions, processes, and certifications necessary for the successful implementation of the new requirements as they relate to the wide range of new materials in the BABA Act. In addition, AASHTO estimates that the construction industry – considering contract and supply chain issues – will need at least 24 months to source sufficient quantities of domestically-produced construction materials.

Application to Technology Infrastructure, EV Infrastructure

To support the objectives of IIJA, state DOTs need the flexibility and tools to deliver technologies that are new to Title 23 eligibility, such as EV charging infrastructure and emerging technologies that support connected vehicles and conversion to cellular V2X roadside communications, at IIJA investment levels despite anticipated limited domestic product

availability in the short term. For example, given the timeline for development of EV charging plans, the desire to deploy infrastructure quickly, and the anticipated significant increase in demand for EV charging infrastructure, an extension of the blanket waiver for manufactured products, and/or increased flexibility for technology products, is needed to ensure early success of the NEVI program.

Application to Utilities

The OMB memo does not clearly address whether the new Buy America requirements extend to utility relocations required for infrastructure projects. AASHTO strongly recommends that utilities be excluded from Buy America requirements. Existing Buy America requirements on iron and steel already cause delays in utility relocations due to the unavailability of parts, and the waiver application process places additional hardship on small utilities that are already strapped for funds and labor. Thus, to the extent that utilities are simply being compensated for being forced to relocate their infrastructure either within or outside a project's right-of-way, they should not be subject to Buy America.

Application to Grants, Advance Construction

The OMB memo recommends that federal agencies include language in all Notices of Funding Opportunity about Buy America requirements in order to provide applicants fair notice of anticipated changes. However, until clarifications on these requirements are well established, any grant program that receives applications prior to the clarifications being provided should not be subject to the Buy America requirements, as changes after award will inevitably lead to delays and cost increases.

States also have concerns related to projects utilizing advance construction. Without a phase-in period for this category of projects, any obligation made on an advance construction project after November 10 would be subject to Buy America, effectively changing the rules on the contractor and leading to delay due to potential renegotiations with suppliers. Thus, any advance construction project authorized or awarded prior to the effective date of the new Buy America requirements should not be subject to these provisions.

Waiver Process and Timeliness

An efficient and timely approach to granting individual material waivers also needs to be established as American markets are ramping up to meet demand. It is unclear how the new requirements will dovetail with typical construction contracting processes, but states will likely need to receive proposals prior to determining the need for a waiver. The current waiver process for Buy America often takes an undefined and unpredictable amount of time, leading to construction impacts and material delays. The production of, availability of, and access to materials varies across the country – especially as it relates to the new category of construction materials – so clarity, flexibility, and timely determinations (e.g., within 15 days of a waiver request) in the waiver procedures are needed.

In addition, the transition from waivers (including the current 180-day waiver) to full implementation of Buy America needs a phase-in period as well. If states are to advertise for

projects under new rules after November 10, they need to *already* have fully-developed specifications. While states are currently attempting to develop good-faith processes for implementing the new Buy America requirements, changes to the Buy America requirements are still anticipated over the next several months, and these will not be able to be incorporated into projects advertisements in time for implementation after November 10.

Education and Information Dissemination

Finally, agencies and industry need additional education and training on the new Buy America requirements with which they must now comply, as guidance is still being developed and many of the impacted manufacturers have not previously been subject to these requirements. Agencies and vendors need additional time to transition and expand their processes, as well as technical guidance to help ensure compliance with Buy America in the new category of construction materials, including details on manufacturing requirements and documentation needed for certification.

State DOTs would also find it beneficial, as mentioned in the OMB memo, for USDOT to engage with the Made in America Council to develop resource lists for common items, goods, or materials for which transportation agencies are experiencing challenges in finding suppliers.

ADDITIONAL INFORMATION RELATED TO SPECIFIC QUESTIONS IN THE REQUEST FOR INFORMATION

The following are responses to individual questions posed within the RFI.

(1) In addition to those construction materials identified by OMB, are there specific materials, products, or categories of materials or products that are commonly used in DOT-funded projects that should be included as “construction materials” for the purpose of BABA implementation?

Within the list of construction materials that currently exists, AASHTO recommends focusing initially on just a few materials that will help achieve the overall job-creation goals of Buy America – or as phrased in other parts of the RFI, “construction materials *commonly used* in DOT-funded projects” [emphasis added]. Focusing on specific materials will help ensure that the economy gets the biggest return on its investment while reducing the amount of anticipated project delivery delays that would be involved in tracking endless categories of materials that will have little-to-no impact on the creation of American jobs or the growth of American manufacturing.

(2) Are there materials used in DOT-funded projects that do not clearly fit in any one of the three categories: steel and iron; manufactured products; or construction materials? How should DOT assign them to one of these statutory categories?

There are numerous materials that fall within the “gray area” between a construction material and a manufactured product, such as epoxies, plastics made from multiple

materials, and items that are “refined” from other materials as opposed to being “manufactured.”

- Plastic products are created from various chemicals and other compounds. Is a product that is made from multiple resins (such as PVC pipe) considered a construction material or a manufactured product?
- For materials with coatings, such as galvanized guardrail, steel beams, powder-coated aluminum poles, etc., the coating process should change the category of a given material to a “manufactured product.” As many coatings contain non-ferrous metals (such as zinc) that are not mined in the United States due to environmental regulation, they are not likely to ever become Buy America compliant and should be excluded from the list of non-ferrous metals.
- Glass beads are an intrinsic part of retroreflective pavement markings, but are often applied by the contractor on the job site, not by the manufacturer. Would the pavement marking, including the glass beads, be considered a manufactured product?

Additional clarification is also needed regarding whether a “use” test exists for listed construction materials. For example, would the use of plastic as an aggregate exempt it from Buy America requirements, since aggregates are exempt?

(3) Are there items that DOT agencies currently treat as manufactured products that should instead, under the OMB Initial Implementation Guidance, be treated as construction materials?

As discussed previously, AASHTO recommends narrowing the list of construction materials to those “commonly used” materials that will have a substantive impact on the creation of American manufacturing jobs.

(4) Based on the definition of “all manufacturing processes” in the OMB Initial Implementation Guidance, what do you consider “the final manufacturing process” and the “immediately preceding manufacturing stage” for common goods used in DOT-funded projects in each category of construction material listed in the OMB Initial Implementation Guidance or any other category you identify in response to Question 1 above?

Depending on the material under consideration, the identification of individual stages within a given manufacturing process is frequently not straight-forward. In addition, for some materials, the manufacturing process may consist of only one step beyond the acquisition of raw materials. Thus, clarification is needed, likely material by material, for industry to determine whether their final two manufacturing stages are (or can be) accomplished in the US.

(5) Are the final manufacturing process and the immediately preceding manufacturing stage different for different types of products made from similar materials (e.g., Polyvinyl Chloride (PVC) or High-Density Polyethylene (HDPE) pipe vs. PVC or HDPE lumber)?

Industry is in a better position to respond to this question.

(6) Certain DOT OAs [Operating Administrations] have long provided definitions of “manufacturing processes” in their implementing regulations for Buy America requirements. For example, FTA’s regulation at 49 CFR 661.3, which it applies to manufactured products, states: “[T]he application of processes to alter the form or function of materials or of elements of the product in a manner adding value and transforming those materials or elements so that they represent a new end product functionally different from that which would result from mere assembly of the elements or materials.” FHWA’s regulation for steel and iron materials at 23 CFR 635.410(b)(1) applies to all “manufacturing processes, including application of a coating, for these materials must occur in the United States. Coating includes all processes which protect or enhance the value of the material to which the coating is applied.” Should the same (or a similar) definition of a manufacturing process apply to the final manufacturing process and the immediately preceding manufacturing stage for construction materials commonly used in DOT-funded projects? If not, why not, and is there another standard for manufacturing processes that might be more appropriate to apply to construction materials?

Depending on the material in question, there may only be one manufacturing stage between the acquisition of the “elements of the product” and the production of the finished material. In this case, an “immediately preceding manufacturing stage” may not exist.

Clarification is also needed for materials or products that are not “manufactured” per se, but are refined from another material, such as epoxies derived from petroleum.

(7) Are there some items in OMB’s list of construction materials that typically are used in DOT-funded projects only after they have been combined into a manufactured product? For example, is glass regularly used by itself as a construction material, or does it usually arrive at a project already incorporated with other materials as a manufactured product?

As mentioned previously, some examples of materials that are typically used only after being combined into a manufactured product include:

- Glass beads used in pavement markings
- Non-ferrous metals (e.g., zinc) used in coatings
- Non-ferrous metals (e.g., copper), plastics, and glass used in wiring
- Non-ferrous metals (e.g., lithium) used in batteries and other electrical devices

(8) FTA already has an established procedure for bidders or offerors to certify the origin of steel and iron and manufactured products in its implementing regulation at 49 CFR 661.6. Should FTA require the same procedure to assure the origin of construction materials for FTA-funded projects? If not, what should FTA do differently?

To the extent that requirements surrounding the implementation of Buy America for the new category of construction materials can be made consistent among all operating administrations within USDOT, that should be a primary goal of this effort.

(9) Under FHWA-funded programs, State DOTs are responsible for Buy America compliance, per 23 CFR 635.410(d). Bidders are required to comply with the project specifications, including Federal-aid projects with Buy America requirements. Most State DOTs require certifications/Step-certifications from bidders/contractors/suppliers to ensure compliance. Should FHWA continue to follow this process for certifying construction materials? If not, what should FHWA do differently?

Additional details on compliance requirements are needed by state DOTs, material by material, to provide suppliers with the information needed to confirm that they fulfil the new Buy America requirements. As noted previously, the number of manufacturing stages, the processes used to create certain materials, and the categorization of materials and products varies to the extent that a single, generalized process for establishing compliance is not achievable.

(10) A commenter on DOT's proposed temporary Buy America waiver for construction materials stated that "the ability to certify materials will grow over time, so there should be a good faith certification process that can be refined over time." What would such a "good faith certification process" that can be implemented in the near term (i.e., prior to the expiration of the temporary waiver on November 10, 2022) look like? What steps would be required to refine those processes over time?

As mentioned in response to Question 1 above, within the list of construction materials that currently exists, AASHTO recommends focusing initially on selected materials that are commonly used in transportation infrastructure projects that will help achieve the desired job-creation outcomes. This approach will help ensure that the economy gets the biggest return on its investment in the new Buy America requirements while reducing the amount of anticipated project delivery delays that would occur in tracking endless categories of materials that are likely to have little-to-no impact on the creation of American jobs and industry.

One possible step-wise approach to implementing the new Buy America requirements over a period of several years could begin by researching and sharing information on selected construction materials – as a sort of pilot program – to establish the needs of and the processes to be used by the various segments of the transportation industry in implementing the new regulations. As these initial materials are established as American-made, the administration can move to the additional materials and follow a similar transition process.

An alternate scenario that might encourage industry growth would be to require certain percentages of materials supplied over time to be Buy America compliant. For example: 20% of product supplied by a supplier needs to be US made within year 1, 40% by year 3, 60% by year 5, etc. The percentages and years would vary by material, depending on how long it might take to grow a given industry. Significant analyses would need to be conducted at the national level prior to determining these timelines.

(11) Is the standard in the OMB Initial Implementation Guidance sufficiently clear to enable a bidder or offeror for a DOT-funded project to certify the construction materials to be used in the project are produced in the United States? If not, what further clarification is needed?

While the intent of the OMB guidance is relatively clear, significant clarification is needed to make compliance determinations on a number of different materials as discussed in response to the questions above. For example:

- The categorization of some materials is unclear (material versus manufactured product) for such items as plastics, epoxies, and “refined” materials.
- The number of manufacturing stages required for a given material or product may be less than the two that are required to be based in the US.

(12) Are there construction materials commonly used in DOT-funded projects for which suppliers or manufacturers cannot readily determine or trace the country of origin of the final manufacturing process and the immediately preceding manufacturing stage? Are there records or documentation already in use that could serve as evidence of the origin of these to manufacturing processes (e.g., country of origin documentation, mill markings, quality control tracking)?

Examples of some materials that are not readily traceable for the final two manufacturing stages (or for which there may not be two distinct manufacturing stages) include:

- Recycled glass used in glass beads
- Plastic
- Polymers and epoxies

(13) Are there any construction materials commonly used in DOT-funded projects that are known not to be produced in the United States based on OMB's final manufacturing process and the immediately preceding manufacturing stage standard, or are known not to be produced in sufficient quantity or of satisfactory quality? What is the basis for that knowledge?

The category of “non-ferrous metals” is extensive and complex from a Buy America perspective, as certain metals used in transportation (zinc for coatings, lithium for batteries) are not currently produced (and are not likely to be produced anytime soon) in the United States due to environmental restrictions.

Materials currently sourced from both US and foreign sources (which may not be available in sufficient US quantities in the short-term) include lumber, composites, glass-fiber reinforced polymer rebar, and resins in thermoplastic pavement markings.

In addition to environmental restrictions, there is concern that the transportation industry may not consume sufficient quantities of some materials to spur the creation or expansion of industries to produce these materials in the United States. In these cases, the Buy America requirements will simply lead to no availability of product.

(14) Which construction materials commonly used in DOT-funded projects currently are produced in the United States in sufficient and reasonably available amount and of satisfactory quality? Please feel free to provide any additional information on how production of these construction materials in the United States supports the regional or local economy or workforce.

Industry is in a better position to respond to this question.

(15) Are there construction materials commonly used in DOT-funded projects that are produced in the United States but subject to supply constraints? Please be specific regarding lead times or delays that will be experienced on DOT-funded projects as a result of a specific construction material supply constraint. Is the constraint on domestic supply a recent phenomenon (i.e., beginning in 2020 or later), or is it a longstanding market condition?

State DOTs have been experiencing product shortages and supply chain disruptions for several years, which are now coupled with significant cost escalation. However, these challenges vary from region to region and from state to state, so the products and materials subject to supply constraints varies across the country. Examples of products states have recently experienced shortages, delays, and price increases on include items such as structural steel, cable guardrail, wire mesh, epoxy products, lumber, and rubber. Please see the responses from individual State DOTs for more specific information related to this question.

(16) Are there construction materials commonly used in DOT-funded projects that previously were not produced in the United States but are currently produced in the United States or are in the process of “onshoring” as a result of recent statutory, regulatory, or market changes?

Industry is in a better position to respond to this question.

CONCLUSION

In summary, state DOTs need the following actions from the administration to help ensure a successful transition to the new Buy America requirements in conjunction with a successful roll-out of transportation projects as part of IIA:

- Focus the new requirements on specific, commonly-used construction materials that will affect a positive impact on American manufacturing jobs without unintentionally impacting existing construction jobs.
- Provide clarifications and national direction on the categorization of materials and products, as well as research on domestic availability of products to support the transportation construction industry without significant delays and/or lengthy and unreliable lead times for materials.
- Ensure that the implementation of the NEVI program and other technology-based efforts are not unduly delayed.
- Exempt utility relocations from Buy America.

- Exempt grant applications submitted prior to, and advance construction projects started prior to, the final determination of new rules for Buy America.
- Streamline the process for waiver applications and determinations.
- Provide training and information dissemination throughout the broader industry to ensure successful implementation of the new requirements.

AASHTO and the state DOTs greatly appreciate the opportunity to provide input on the potential impact of the new Buy America requirements on transportation project delivery. We encourage USDOT to carefully consider the input provided herein, as well as in the detailed comments submitted by individual states.

If you have questions on these comments and recommendations, please contact Mr. Jim McDonnell, P.E., Director of Engineering, at (202) 624-5448, jmcdonnell@aaashto.org.

Sincerely,

A handwritten signature in black ink that reads "Shawn D. Wilson, Ph.D." The signature is written in a cursive, flowing style with a large initial 'S' and 'W'.

Shawn D. Wilson, Ph.D.
President, American Association of State Highway and Transportation Officials
Secretary, Louisiana Department of Transportation and Development