

United States Senate

WASHINGTON, DC 20510

July 25, 2019

The President
The White House
1600 Pennsylvania Ave
Washington, D.C. 20500

Dear Mr. President:

On Monday, July 15, 2019 you signed Executive Order 13881 “Maximizing Use of American-Made Goods, Products, and Materials.” In your remarks, you claimed that the Executive Order “will eventually raise [Buy American Act domestic content] standards up to 75 percent [of the product’s component costs].” However, EO 13881 only asks the Federal Acquisition Regulatory Council to “consider” proposing rules to increase domestic content requirements. We have both authored proposals in the Senate that, unlike your three Buy American Executive Orders, would actually *require* federal agencies to increase their spending on American-made products—leading to more manufacturing jobs in the United States. While we appreciate the attention you have brought to this issue, the American people need results. As Congress works to reauthorize our surface transportation programs, we ask that you keep your promises and publicly support our efforts to strengthen Buy America requirements in the legislation.

A long-term surface transportation reauthorization bill provides the best opportunity to enhance Buy America standards. Improving these programs through statute would provide certainty for American manufacturers by making these improvements permanent. Buy America policies ensure that the economic benefits of infrastructure investment flow to American firms and their workers—not foreign firms selling the cheapest materials available. A surface transportation bill should strengthen existing Buy America requirements to ensure that any federally supported infrastructure project uses iron, steel, manufactured goods, and commodity construction materials that are produced in the United States.

In order to achieve our shared goal of increasing government spending on American-made products when building our infrastructure, we ask that you endorse the following Buy America proposals in the upcoming surface transportation bill:

- **Expand Buy America Preference Policies to All Federally Financed Infrastructure Projects, Release Buy American Report**

Buy America laws have been a part of most transportation infrastructure programs for decades, but other federal infrastructure programs are not covered by Buy America or must be renewed annually in spending bills. We propose applying Buy America standards to all federally supported infrastructure investment to ensure that U.S. taxpayer dollars support U.S. workers and American-made goods to the greatest extent possible.

One way to help understand which federal infrastructure programs are not covered by Buy American requirements would be to release the Buy American report that you required in Executive Order 13788 but have kept secret.

- **Expand Scope of Materials Subject to Buy America**
Buy America laws in many cases apply only to iron, steel, and manufactured goods. We propose expanding the covered materials to include (but not be limited to): non-ferrous metals (e.g. copper), plastic and polymer based products (e.g. PVC pipe, composite building materials), concrete and other aggregates, glass (including optic glass to cover broadband deployment), lumber, and drywall.
- **Standardize The Waiver Process and Post Waivers Publicly**
The Buy America waiver process can also vary by agency. In addition to standardizing the process, we propose posting all waivers on a public website, BuyAmerican.gov, along with a justification for the waiver. The public should be provided a comment period before the waiver is provided. This will empower small and medium sized manufacturers, assist contracting personnel in identifying potential suppliers and create desperately needed transparency.
- **Develop Manufacturing Base by Supporting Companies Making Waived Products**
The information gathered by the BuyAmerican.gov waiver database should be analyzed for items that are routinely unavailable from domestic suppliers. If certain foreign products are repeatedly procured through a Buy America waiver, the Small Business Administration should be directed to provide a loan preference for businesses that would make a substitute product.
- **Codify the 'All Manufacturing Processes' Standard & Apply it to More Materials**
Current Buy America standards for iron and steel require that all manufacturing processes (e.g. melting, refining, forming, rolling, etc.) occur in the United States. However, these requirements are not enshrined in law and could be changed through regulation. We propose making those rules permanent, and establishing new standards for other construction materials.
- **End the Blanket Waiver for Manufactured Goods at DOT**
Almost immediately after Congress passed legislation to require that all manufactured goods used in Department of Transportation projects be made in America, the DOT issued an across-the-board waiver. This is clearly contrary to Congressional intent. DOT should rescind the waiver and issue rules to increase the Department's purchases of American manufactured goods.
- **Help States Buy America by Improving Research**
Very often states are the end-users of federal infrastructure dollars. We propose using data-sharing, market research, and waiver research to ensure that states can meet Buy America requirements and create good-paying manufacturing jobs in their communities. The latest research on the DOT's construction costs is from 2004. We need to upgrade this information so states can know how to prioritize spending on these materials.

In closing, we again reiterate our request that you advocate for Buy America policies that will pass in to law when surface transportation programs are reauthorized. Without these permanent changes your Executive Orders will not be enough to provide the significant economic benefits that we know Buy America policies can.

Sincerely,



Tammy Baldwin
U.S. Senator



Christopher Murphy
U.S. Senator