



September 21, 2023

Via Electronic Submission

Alan Davidson
Administrator
National Telecommunications and
Information Administration
Department of Commerce

**Re: Notice and Request for Comments; Limited General Applicability
Nonavailability Waiver of the Buy America Domestic Content Procurement
Preference as Applied to Recipients of Broadband Equity, Access, and
Deployment Program**

Dear Mr. Davidson:

The U.S. Chamber of Commerce (“Chamber”) respectfully submits these comments to the above referenced proceeding, the Department of Commerce’s (“Commerce”) Notice and Request for Comments (“Notice”) to provide a limited Build America, Buy America (“BABA”) waiver for the Broadband Equity, Access, and Deployment (“BEAD”) Program.

The Infrastructure Investment and Jobs Act (IIJA, P.L. 117-58) imposed novel BABA requirements on a wide range of infrastructure projects and programs across a range of sectors, including broadband, water, energy, and transportation infrastructure. While the Chamber supports efforts to incentivize private sector investment in the United States, these requirements [exacerbate](#) existing supply chain challenges in the broadband marketplace and will make it [more difficult](#) to achieve the IIJA’s broadband objectives including closing the digital divide. This challenge is particularly acute in the broadband space considering significant swaths of broadband equipment and components are not produced in the United States.

The Chamber therefore supports the waiver of certain aspects of BABA that would otherwise impede the effective implementation of the BEAD Program and in recognition that a strict application of BABA would hinder the IIJA’s statutory objective of connecting all Americans in a timely manner. Consistent with the goal of facilitating the effective implementation of BEAD, we urge Commerce to carefully review the proposed waiver conditions to ensure they can be met. The Chamber also strongly supports the waiver’s duration of five years considering it provides certainty

for eligible entities and for industry stakeholders. As Commerce conducts annual reviews of the waiver, we encourage Commerce to consult with impacted stakeholders to be sufficiently informed on market conditions and any potential modifications to the waiver that may be needed.

In addition, the Chamber provides two further recommendations. First, the Chamber requests that Commerce provide additional information on the proposed Buy America Self Certification and how Commerce intends to pursue enforcement of such requirement. Second, Commerce must ensure that BABA is implemented consistent with our international trade obligations, which is also an IIJA requirement. These obligations refer to the World Trade Organization (WTO) Government Procurement Agreement (GPA) and the government procurement obligations in U.S. free-trade agreements (FTAs). The Chamber recommends Commerce publicly certify that the proposed waiver is consistent with United States trade obligations.

The Chamber thanks Commerce for considering this comment on the proposed Buy America waiver for the BEAD Program. If you have any questions, please reach out to Matt Furlow, Policy Director, at mfurlow@uschamber.com.

Sincerely,

A handwritten signature in black ink that reads "Jordan Crenshaw". The signature is written in a cursive, flowing style.

Jordan Crenshaw
Senior Vice President
Chamber Technology Engagement Center
U.S. Chamber of Commerce