

# BUY AMERICA

## Poor Implementation of New Buy America Requirements Jeopardizes the Success of the IIJA

### Action Needed:

Congress must conduct oversight over OMB's implementation of BABAA by:

- (1) Removing the requirement for the White House to sign off on every Buy America waiver request; and
- (2) Demanding full transparency in the waiver process from the time the agency first receives the Buy America waiver request.

### Background:

AGC supports sensible efforts to incentivize the growth of America's domestic manufacturing capacity to restore balance to the supply chain. Unfortunately, the Administration has not adeptly implemented the Build America, Buy America Act (BABAA) included in the Infrastructure and Jobs Act (IIJA). BABAA expands domestic sourcing requirements to all construction materials on federally assisted projects and the rushed implementation of the law threatens delays and increased costs for construction projects such as affordable housing, transit systems, drinking water, roads, bridges and more.

### AGC Message:

- **OMB rushed implementation without proper understanding of construction.** The Office of Management & Budget (OMB) has issued multiple iterations of guidance, often conflicting with each other. Instead of implementing the new requirements on a product-by-product basis with a reasonable phase-in period, after thoroughly assessing domestic manufacturing capacity, OMB has charged ahead amidst industry confusion and uncertainty. Stakeholders—including states, local governments, and the construction industry—are now left reinterpreting new guidelines, which only adds to the uncertainty.
- **Depoliticize the waiver process and allow federal agencies to make the final decisions for projects they know best.** Executive Order 14005 - *Ensuring the Future Is Made in All of America by All of America's Workers* - requires OMB to be involved in every waiver request submitted by federal agencies and makes it the final decision-maker for each request. Moreover, OMB's latest guidance instructs federal agencies to consult with OMB before posting waiver requests for public comment. This additional involvement from the White House, which is not mandated by Congress, unnecessarily slows down vital infrastructure projects.
- **The waiver process lacks transparency and is unworkable:** Currently, federal agencies must submit waivers for items not made in America to OMB, which has 15 days to approve or deny the waiver. However, there is no clear indication of when a federal agency received the waiver request, leading to delays. As a result, waivers can take months or even years to process while stakeholders are often left in the dark regarding the status of their requests.