July 1, 2021

Governor Janet Mills
1 State House Station
Augusta, ME 04333-0001

Dear Governor Mills,

We urge you to sign LD 1411/SP 461, the Buy American Build Maine Act.

Reinvesting tax dollars into the local and national economy promotes growth, expands the tax base, and – by creating more job opportunities for middle-class Americans – reduces the burden on social safety net programs.

As companies continue to invest in their U.S. operations, they modernize plants to make them safe and efficient, and create jobs in the process. This legislation will ensure that as Maine regulates the way U.S. manufacturers do business, Maine will do its best to encourage U.S. production and investment. The Buy American Build Maine Act will ensure that compliance with U.S. environmental and labor standards is the standard for doing business with the one of the globe’s biggest customers.

The United States is the most open major economy in the world. Despite this extraordinary fact, some incorrectly insist that “Buy America” preferences in taxpayer-financed government spending are “protectionist” policies that lead the United States to the precipice of an international trade war. In fact, the opposite is true: Buy America preferences are an important and legitimate lever to open foreign procurement markets for U.S. products.

Buy America is a longstanding practice by the federal government, as well as many state governments, that is well-understood by contracting officers and bidders on public projects. Maine state agencies are already accustomed to applying Buy America preferences when executing programs funded by federal grants. In no way would signing the Buy American Build Maine Act into law threaten any of Maine’s federal funding. Dozens of states have similar laws that create a procurement preference for American-made goods when they are available in a sufficient quality and quantity and are competitively priced in the global marketplace. For example, Illinois,
Indiana, Maryland, New Jersey, New York, Ohio, Pennsylvania, Texas, West Virginia and others all have similar domestic preferences to those in the Buy American Build Maine Act in statute that apply to their state spending.

Criticism of Buy America laws falsely portrays other nations’ markets as completely unfettered while they are not. The EU and Canada – as well as all other parties to the General Procurement Agreement (GPA) – have broadly excluded many of their procurement markets from the GPA. Indeed, these exclusions go substantially further than the exclusions claimed by the United States. Accordingly, the EU, Canada and other nations already have no obligation to provide U.S. firms with access to a wide array of their government contracts.

The general rule under international law permits members of the World Trade Organization (“WTO”) to favor their respective domestic suppliers over foreign suppliers of goods and services in government procurements. And they do. Annual reports by the United States Trade Representative reveal that many of our trading partners currently maintain a variety of governmental procurement restrictions that exclude the products and services of U.S. manufacturers. Each country, however, to the extent it chooses to depart from the WTO’s general rule, is free to commit itself by international agreement to treat foreign suppliers no less favorably than it treats its own domestic suppliers.

Despite these agreements, U.S. courts have recognized that states are nonetheless permitted to impose domestic preferences where they are acting as market participants in government contracting. Simply put, states are free to require domestic preferences in their contracting and do not violate any obligations made under international agreements – even those dealing with government procurement.

When domestic content requirements are applied, they ensure that U.S. materials get a preference in U.S. taxpayer-financed public works procurements. By doing so, procurement officials ensure that U.S. environmental and labor standards are not just a burden to U.S business looking to compete in a global economy, but rather a standard for doing business with the globe’s biggest customer.

Without these sensible changes enacted into law, Maine will continue on a path of sending Mainer’s hard-earned tax dollars to foreign firms when American workers stand to do the work. Our manufacturers and workers are anxiously watching, hoping that you will support these commonsense and necessary fixes to existing state law. Sign the Buy American Build Maine Act, and tell these manufacturers and workers you support their jobs, their businesses, and their communities.

Sincerely,

Alliance for American Manufacturing
American Foundry Society
American Institute of Steel Construction
American Iron and Steel Institute
BlueGreen Alliance
Industrial Union Council, AFL-CIO
International Association of Bridge, Structural, Ornamental, and Reinforcing Iron Workers
International Association of Machinists and Aerospace Workers
Maine AFL-CIO
National Steel Bridge Alliance
Steel Fabricators of New England
Steel Manufacturers Association
United Steelworkers, District 4