October 28, 2021

SUBMITTED VIA REGULATIONS.GOV

Ms. Mahruba Uddowla
Procurement Analyst
General Services Administration
1800 F Street, NW
Washington, DC 20405

Re: Comments on Proposed Amendments to the FAR Buy American Act Requirements (FAR Case 2021-008)

Dear Ms. Uddowla:

The American Iron and Steel Institute (AISI) is pleased to submit the following comments to the Department of Defense, General Services Administration, and the National Aeronautics and Space Administration on the Proposed Amendments to the Federal Acquisition Regulation (FAR) Buy American Act Requirements (FAR Case 2021-008) (86 FR 40980, July 30, 2021).

**Background on the American Steel Industry**

AISI serves as the voice of the American steel industry in the public policy arena and advances the case for steel in the marketplace as the preferred material of choice. AISI’s membership is comprised of integrated and electric arc furnace steelmakers, and associate members who are suppliers to or customers of the steel industry.

The American steel industry supports nearly two million jobs and contributes $520 billion to the economy. The industry is essential to our national and economic security and our critical infrastructure. Further, the domestic industry is the cleanest and most energy efficient of the leading steel industries in the world.

AISI and its member companies in the American steel industry have long taken the position that all iron and steel procured by federal agencies with taxpayer dollars should be produced in the United States. Specifically, domestic
preference provisions should require that all manufacturing processes for iron and steel occur in the United States, consistent with the longstanding application of the existing Buy America and Buy American requirements for federal procurement. Doing so not only benefits the critical domestic industry, but also the global environment, given that the steel industry in the United States leads the world in clean steel production.

Comments on Proposed Amendments

Beginning with the issuance of Executive Order 14005 on January 25, 2021, the Biden administration has taken a number of steps to rightfully expand the role for domestic manufacturing – specifically of iron and steel products – in public procurement. These proposed amendments will implement key aspects of the Executive Order for the benefit of domestic producers and their employees. These amendments will make sure that the full benefit of public investments is realized in the domestic economy.

Consistent with our support for strong federal requirements for the public procurement of iron and steel products, AISI reiterates its support for the provisions that increase the domestic content requirement for predominantly iron and steel products in the Buy American Act context and from 50 to 95 percent (FAR: Maximizing Use of American-Made Goods, Products, and Materials, 86 FR 6180, January 19, 2021). The proposal currently under consideration reaffirms that previous change. Amending the threshold so that more domestic content is required under Buy American provisions will continue to strengthen the domestic steel supply chain. It will ensure that a larger percentage of federal procurement funding is used for materials made by American workers. Infrastructure and other federal purchasing are public trusts that should be fully deployed using long-standing principles for domestic manufacturing.

AISI recommends that the proposal be altered so that entire steelmaking processes, including the melting and pouring of the raw steel, occur in the United States in order to qualify as manufactured in the United States under the Buy American Act. In the Buy America Act context, AISI has long supported this “melted and poured” standard for defining which steel products are made in the United States, as it ensures that every critical stage of the steelmaking process occurs in the United States. Absent this clarity, steel that is initially manufactured (melted and poured) abroad and then rolled and/or finished in the United States could be used in taxpayer-funded procurement. It could also permit end-use products to be assembled in the United States using components made entirely of foreign iron and steel.
The “melted and poured” standard has been successfully applied since 1983 for highway, transit, water, and other federal assistance infrastructure projects, and should be included in the final version of these amendments as well. Application of this requirement to the Buy American Act will ensure that products deemed “made in America” are truly produced in the United States and are not simply assembled or superficially finished in the U.S. in order to qualify for federal procurement.

AISI also notes the creation of a “fallback” threshold during the phase-in period before the 75% requirement is in effect. The fallback threshold, however, only applies to construction material that does not consist wholly or predominantly of iron or steel or a combination of both and to end products that do not consist wholly or predominantly of iron or steel or a combination of both. This is appropriate policy to implement the goals of the Buy American Act, as well as the policy vision of the Biden administration.

Summary

Thank you again for the opportunity to provide the input of the American Iron and Steel Institute on this proposal. As stated above, AISI strongly supports the Proposed Amendments to the Federal Acquisition Regulation (FAR) Buy American Act Requirements. As proposed, the provisions would take necessary steps toward maximizing the use of domestically produced steel in federal government procurement. Doing so will ensure that iron and steel materials procured for federal programs be produced in the United States and that the entire steelmaking supply chain benefits from procurement funded by U.S. tax dollars. It also ensures that taxpayer funds are used to support the domestic steel industry and its employees, rather than those of competitor nations. Finally, by recognizing the domestic industry’s leadership in terms of energy and carbon efficient steel production, the amendments will provide benefits to the global environment.

Sincerely,

Kevin M. Dempsey
President and Chief Executive Officer