May 14, 2022

SUBMITTED VIA REGULATIONS.GOV

The Honorable Marcia Fudge  
Secretary  
U.S. Department of Housing and Urban Development (HUD)  
451 Seventh St., SW  
Washington, DC 20410-5000


Dear Secretary Fudge:

The American Iron and Steel Institute (AISI) submits the following comments to the Department of Housing and Urban Development (HUD) on the proposed General Applicability Waivers of Build America, Buy America Provisions as Applied to Recipients of HUD Federal Financial Assistance (Docket No.: FR-6331-N-01) and of Build America, Buy America Provisions as Applied to Tribal Recipients of HUD Federal Financial Assistance (Docket No. FR–6331–N–02). 1 AISI opposes these proposed waivers and requests that HUD fully implement the Buy America Domestic Content Procurement Preference (BAP) provisions for iron and steel products from the Build America, Buy America Act (BABA Act) aspects of the Infrastructure Investment and Jobs Act (IIJA) without delay.

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

---

AISI Comments on HUD General Applicability Waiver Proposals
May 14, 2022
Page 2

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.

Industry Support for the Domestic Procurement Preferences

AISI and its member companies in the American steel industry have long taken the position that all iron and steel items 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 statutory requirements as applied by the Department of Transportation (DOT). 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.

AISI and its member companies were strong supporters of the IIJA, which was signed into law as the Bipartisan Infrastructure Law (BIL) in November 2021. The legislation authorized funding for about $850 billion in steel-containing infrastructure investment, including the existing Highway Trust Fund and new, additional funding for steel-containing projects for drinking water and wastewater, electricity grid, and electric vehicle charging infrastructure. Additionally, key aspects of the law included provisions for iron and steel products from the BABA Act to expand and strengthen the requirements that federal agencies ensure that all iron and steel products purchased with taxpayer funds under those programs are made in America.

AISI Opposes the Proposed General Applicability Waivers

Critically, the BABA Act states that the “domestic content procurement preference” for federal agencies means that funding may not be obligated for a project unless “all iron and steel used in the project are produced in the United States.” It further states that this requirement shall take effect “[n]ot later than 180 days after the enactment of this Act” – i.e., by May 14, 2022. HUD’s proposed waivers of six months for non-tribal recipients of federal financial assistance and one year for tribal recipients are contrary to the text and intent of the statute. The proposed waivers would permit steel products made overseas – often with a much larger environmental impact – to be imported into

---

the United States and purchased with federal funds. Such waivers should not be implemented with respect to items made primarily of iron and steel.

Further, HUD’s stated justification for the proposed general applicability waivers is misguided. In the proposals, HUD states the procurement preference obligations are new to HUD programs and Federal Financial Assistance. However, in 2009 HUD developed and implemented extensive guidance for the domestic preference requirements to iron and steel of the American Recovery and Reinvestment Act. Additionally, many other federal agencies have implemented domestic iron and steel procurement requirements extensively in recent decades. These successful models include the Department of Transportation’s Federal Highway Administration (FHWA). The Drinking Water and Clean Water State Revolving Fund (SRF) programs at the Environmental Protection Agency also have existing iron and steel procurement preferences. The programs run by these agencies should serve as appropriate models on which HUD can base its iron and steel procurement obligations.

Summary

Again, AISI opposes the proposed general applicability waivers of Build America, Buy America provisions for recipients of HUD Federal Financial Assistance to the extent they would apply to items made primarily of iron and steel. The waivers would inappropriately permit steel products made overseas to be imported into the United States and purchased with taxpayer funds. Additionally, HUD offices and multiple other federal agencies have extensive experience in successfully executing iron and steel product procurement preferences that can be used as blueprints for its obligations. HUD should invalidate these proposed waivers and implement the BAP provisions for iron and steel products from without delay.

Sincerely,

Kevin Dempsey
President and Chief Executive Officer

---