



**Buy America and the  
*Build America, Buy  
America Act***

# Buy America Pre-BABAA



- Construction materials considered within manufactured products and the steel/iron requirements for structural iron and steel products
- Multiple end products in a typical construction project
  - Bob Hope Airport – Regional Intermodal Transportation Center
  - Second Avenue Subway Project's Water Mist Fire Suppression System
- Each component to be manufactured in the United States
- Executive Order 14005 (Jan. 2021)

# The Build America, Buy America Act

- Statutory language
- Regulatory developments
  - Role of OMB's Made in America Office
  - Initial OMB guidance
- Construction materials
  - Temporary waiver by US DOT
  - DOT RFI – July 28, 2022



# OMB's Rulemaking

- February 9, 2023 “Request for Information”
  - Proposed language for 2 CFR Part 200
  - Rule or guidance?
  - Defining construction materials
  - Defining the end product under the proposal to define components
  - Did the FTA manufactured product rule already accomplish compliance?
  - “Two or more” construction materials – construction material or manufactured product?



# OMB's Rulemaking

- February 9, 2023 "Request for Information"
  - "Predominantly" iron or steel
  - Defining composite building materials
  - Optical fiber and glass



# APTA and Coalition Responses

- Coalition
  - APTA, ARTBA, AGC, NSSGA, ACI-NA, NAHB
  - Key Issues
  - Actions to date, and beyond



# FTA DOT Efforts on Waivers

- Buy America Waiver Request Process
- FTA partial non-availability waiver for unmodified vans and minivans
- DOT temporary construction materials waiver – Covers pre-November 10, 2022 obligations
- DOT January 2023 construction materials waiver for certain contracts and solicitations
- Status of proposed waiver for de minimis costs, small grants, and minor components



# What Comes Next

- The interplay between current FTA manufactured product analysis for construction projects and new BABAA rules for construction materials
  - Materials beyond the BABAA categories
  - Analysis for BABAA covered materials

