



**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

