

AMERICAN PUBLIC TRANSPORTATION ASSOCIATION
FACT SHEET
EXECUTIVE ORDER ON ENSURING THE FUTURE IS MADE IN ALL OF
AMERICA BY ALL OF AMERICA'S WORKERS
January 25, 2021

On January 25, 2021, President Joseph R. Biden, Jr. signed the [*Executive Order 14005, Ensuring the Future is Made in All of America by All of America's Workers*](#) (Order). According to the Order, it is the Biden Administration's policy that the United States Government should use terms and conditions of Federal financial assistance awards and Federal procurements to maximize the use of goods, products, and materials produced in, and services offered in, the United States.

The Order includes the following key provisions:

- Requires the head of each agency, including the Department of Transportation, to immediately take action, as soon as practicable and as appropriate and consistent with applicable law, to consider suspending, revising, or rescinding agency actions that are inconsistent with the Order and propose any additional agency actions necessary to enforce the Order.
- Creates a Made in America Office, located in the Office of Management and Budget (OMB), which will be headed by an appointed Director. Before a federal agency grants a waiver, the granting agency must provide the Made in America Director with a description of the proposed waiver and a detailed justification for the use of goods, products, or materials that have not been mined, produced, or manufactured in the United States.
- Requires the Made in America Director, within 45 days, to publish information that agencies must include when submitting descriptions of proposed waivers and justifications, and publish a deadline, not to exceed 15 business days, for an agency to be notified of the result of the review. The Order also includes dispute resolution procedures if an agency head disagrees with the determination made by the Made in America Director.
 - Agencies granting a waiver of any Made in America laws must assess whether a significant portion of the cost advantage of a foreign-sourced product is the result of the use of dumped steel, iron, or manufactured goods or the use of injuriously subsidized steel, iron or manufactured goods.
- Directs the Administrator of General Services to develop a public website that includes information on all proposed waivers and whether those waivers have been granted. The website will provide publicly available contact information for each granting agency.
- Requires the head of each agency, within 180 days and biannually, to submit to the Made in America Director a report on its implementation of and compliance with all applicable Made in America laws; its ongoing use of any longstanding or nationwide waivers of any Made in America laws; and recommendations on how to effectuate the policy in this Order.

- The Order also requires the Federal Acquisition Regulatory Council (FAR Council) to consider a proposed rulemaking to amend the Federal Acquisition Regulations (FAR) to:
 - Replace the “component test” in Part 25 of the FAR that is used to identify domestic end products and domestic construction materials with a test under which domestic content is measured by the value that is added to the product through U.S.-based production or U.S. job-supporting economic activity;
 - Increase the numerical threshold for domestic content requirements for end products and construction materials; and
 - Increase the price preferences for domestic end products and domestic construction materials.
 - Prior to proposing any amendments to the FAR, the FAR Council must update the list of non-available articles. In addition, the FAR Council must examine any existing constraints on the extension of Made in America laws to information technology that is a commercial item, and develop recommendations to remove those constraints.
- Revokes Trump Executive Order 13788, Buy American and Hire American (April 18, 2017), which stated the then-Administration’s policy that the federal government should maximize, through terms and conditions of Federal financial assistance awards and procurements, the use of good, products and materials produced in the United States, minimize waivers, and rigorously enforce and administer the laws governing entry into the United States of workers from abroad.