



May 10, 2022

The Honorable Gina Raimondo
U.S. Secretary of Commerce
U.S. Department of Commerce
1401 Constitution Avenue, NW
Washington, DC 20230

Re: Build America, Buy America Waiver for Broadband Network Equipment and Consumer Devices

Dear Secretary Raimondo:

On behalf of the Schools, Health & Libraries Broadband (SHLB) Coalition, I write to ask the Department of Commerce to issue a waiver of the Infrastructure Investment and Jobs Act (IIJA) “Build America, Buy America” (BABA) requirements for broadband network equipment and consumer devices.

The [SHLB Coalition](#) is a public interest organization that promotes open, affordable, high-quality broadband for anchor institutions and their communities. SHLB has over 300 members from around the U.S., including anchor institutions, state broadband leaders, and nonprofit and commercial broadband providers.

SHLB and its partner organizations were strong proponents of the IIJA’s passage in Congress and remain key supporters of timely implementation of the IIJA broadband programs. These programs are critical to ensuring that anchor institutions can bring internet access to unserved and underserved communities and help bridge the digital divide. Community anchor institutions – such as K-12 schools, libraries, healthcare providers, community centers, higher education, museums, public housing, houses of worship and other community-based organizations – play a critically important role in making broadband services available to the community. In particular, schools and libraries need greater connectivity to provide wireless and fiber-based broadband service off-campus to surrounding homes and businesses, healthcare providers need much greater broadband capacity to handle the explosion in telemedicine, and anchor institutions of all types provide digital literacy training to help unconnected people adopt and use broadband service. Congress recognized the importance of anchor institutions by including 29 references to anchors in the broadband provisions of the IIJA. These broadband programs are essential if we are to reach our shared goal of solving the digital divide in the next three to four years.

Unfortunately, the BABA requirements as currently drafted could make it difficult or even impossible to reach these goals. While we share the Biden Administration’s goal of increasing U.S. manufacturing, it will take time for companies to build up U.S. manufacturing capability. We understand that, today, the overwhelming majority of broadband equipment (both network equipment and consumer devices) is not currently manufactured in the U.S., and that most of the component parts are derived from abroad. According to a recent [report](#) from the Information Technology and Innovation Foundation (ITIF), “[A]pplying BABA provisions to IT components of the infrastructure bill will raise costs, reduce

infrastructure build, and delay project completion, all without creating any net new jobs.” In short, subjecting broadband programs to BABA could jeopardize our shared broadband deployment and adoption objectives.

We therefore ask the Department of Commerce to issue a targeted public interest waiver of general applicability for broadband network equipment and consumer devices until such time as companies can set up their manufacturing processes in the U.S. The latest [guidance](#) provided by the Office of Management and Budget gives agencies broad authority to issue waivers of the BABA requirements:

Pursuant to Section 70914(c) of the Act, the head of a Federal agency may waive the application of a Buy America preference under an infrastructure program in any case in which the head of the Federal agency finds that—

(1) applying the domestic content procurement preference would be inconsistent with the public interest (a “public interest waiver”); . . .

Without a public interest waiver, sub-recipients are likely to submit hundreds of individual requests to waive the BABA requirements, which will require review by the Department of Commerce and potentially by the Office of Management and Budget as well. Furthermore, states are likely to implement different processes for determining whether projects satisfy the BABA requirements, which will create confusion and uncertainty. By issuing a general waiver ahead of time, the Department of Commerce could substantially reduce the administrative burden, cost increases and delay for sub-recipients who are trying to close the digital divide.

We stand ready to work with you and the National Telecommunications Information Administration (NTIA) on the parameters of a BABA public interest waiver to ensure timely implementation of the Administration’s historic commitment to expand broadband access. Please feel free to reach out to me with further questions.

Sincerely,



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