



AGC

THE CONSTRUCTION
ASSOCIATION

STEPHEN E. SANDHERR, Chief Executive Officer

January 6, 2021

Ms. Stephanie Pollack
Deputy Administrator
Federal Highway Administration
1200 New Jersey Avenue, SE
Washington, D.C. 20590

Dear Deputy Administrator Pollack:

On behalf of the Associated General Contractors (AGC) of America, the largest national commercial construction trade association, representing more than 27,000 firms including America's leading general contractors, specialty contractors, service providers, and suppliers, we appreciate the opportunity to voice our priorities with the Federal Highway Administration (FHWA) on implementation of the Infrastructure Investment and Jobs Act (IIJA).

The IIJA is the most significant infusion of investment in our infrastructure since the enactment of the Interstate Highway System in the mid-1950's. The robust, stable funding level that IIJA includes will allow states to plan needed, long-term projects, while giving AGC members the assurance to make needed investments in equipment and hiring and training new employees. As such, we look forward to FHWA focusing full attention and resources towards implementing this legislation as negotiated and passed by Congress.

Implement Environmental Review and Permitting Reforms

AGC believes the best way to maximize the investment in IIJA would be to implement the environmental review and permitting reforms that were mandated in the IIJA. The complicated operations of these current laws and the intersection of their requirements can delay projects that would improve the overall safety and efficiency of the surface transportation system. By implementing these provisions, we believe the costs associated with delivering projects will be reduced without jeopardizing environmental protections. Specifically, we ask that you implement the provisions that would:

- Codify the One Federal Decision policy;
- Allow for utility relocation in the right of way prior to the National Environmental Policy Act (NEPA) review being completed; and
- Extend the time period for a state to assume the responsibility for small projects, that have little or no environmental impact, from a term of not more than 3 years, to a term of 5 years.

We are concerned that the recent guidance document entitled "Policy on Using Bipartisan Infrastructure Law Resources to Build a Better America" that FHWA distributed to states does not align with congressional intent on this subject. While the bipartisan IIJA made the above listed efforts to further streamline the NEPA review process, FHWA's guidance may create new hurdles in the process by removing certain project types that would be otherwise eligible for a categorical exclusion.



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Deliberately Implement New Buy America Requirements

AGC has concerns with the expansion of the Buy America requirements to include construction materials for federally funded projects. The bill creates exemptions for cement; asphalt; aggregates like stone, sand, and gravel; and aggregate binding agents or additives as inputs of construction materials. As you know, this is a significant expansion from previous law which only included manufactured products like iron and steel.

AGC believes that FHWA, the U.S. Department of Transportation, and the Office of Management and Budget need to allow for an extended transition period and thoroughly seek input from stakeholders prior to implementation. In addition, AGC believes changes to the waiver process are necessary to make it timelier and more accountable to avoid unnecessary project disruptions – including projects to combat climate change and electric vehicle charging infrastructure.

Maintain Flexibility for State and Local Governments

Historically, the Federal-aid highway program has been federally funded and state administered. AGC believes that FHWA must continue to provide state and local governments with the flexibility to address and prioritize their unique transportation needs as Congress intends. FHWA should avoid administrative, one-size-fits-all solutions such as limiting construction of new highway capacity, mandating certain materials or solutions like nature-based resiliency projects, and imposing local hiring preferences.

As each area of our country is diverse and unique, so are the transportation needs of each community. When standardized transportation solutions do not work in a community, too often the contractor gets blamed despite often not being involved in the selection or design of a project. AGC believes that FHWA should continue to provide states with flexibility to address the unique transportation challenges in both urban and rural areas, and every community in between.

New Capacity for Single Occupancy Vehicles

We are concerned with the aforementioned guidance document distributed to states that doesn't align with congressional intent of the IIJA as it relates to construction of new highway capacity. The decision to remove existing eligibilities, like new capacity for single occupancy vehicles, from programs should be left to Congress – not FHWA. As Congress provided what projects are eligible under various programs in this law, FHWA should follow congressional intent and refrain from reviving policy ideas that Congress considered and ultimately rejected.

AGC appreciates the opportunity to provide comments on the important work ahead for your agency in implementing this new law. Transportation improvements connect people of all socioeconomic status to jobs and services, all while yielding short and long-term economic benefits to their communities, and AGC's members are delighted to be a part of making that happen. The IIJA demonstrates to our existing and future workforce that there is sustainable work in the years to come. We look forward to the continued partnership between AGC and FHWA as you work to implement this historic legislation.

Sincerely,

Stephen E. Sandherr
Chief Executive Officer