

January 13, 2022

Via Electronic Submission

Ms. Jennifer Hawes
Procurement Analyst
Regulatory Secretariat Division
Office of Government-wide Policy (OGP)
Regulatory and Federal Assistance Division (MVCB)
1800 F Street, NW
Washington, DC, 20405

Re: Alliance for American Manufacturing Comments on Proposed Rule: Federal Acquisition Regulation: Minimizing the Risk of Climate Change in Federal Acquisitions (Docket ID: FAR-2021-016, Sequence No. 1)

Dear Ms. Hawes:

The Alliance for American Manufacturing (AAM) respectfully submits the following comments on the Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration's (NASA) October 15, 2021, advanced notice of proposed rulemaking regarding Federal Acquisition Regulation: Minimizing the Risk of Climate Change in Federal Acquisitions (Docket ID: FAR-2021-016, Sequence No. 1.)

AAM appreciates the opportunity to comment on this advance notice of proposed rulemaking on a potential policy framework that addresses climate change by requiring the social cost of greenhouse gas emissions to be considered in procurement decisions. The request for comment seeks input on a potential "Buy Clean" policy that would leverage federal procurement to give preference to bids and proposals from suppliers with a lower social cost of greenhouse gas emissions.

AAM is a non-profit, non-partisan partnership formed in 2007 by some of America's leading manufacturers and the United Steelworkers. Our mission is to strengthen American manufacturing and create new private-sector jobs through smart public policies. We believe that an innovative and growing manufacturing base is vital to America's economic and national security, as well as to providing good jobs for future generations.

We appreciate the administration's initiative and its promise to rely on American manufacturing and domestic supply chains to advance our climate goals – including the buildout of our nation's renewable energy infrastructure. AAM stands ready to work with the administration to realize President Biden's aspirations to create millions of good-paying union jobs as the nation moves "ambitiously to generate clean, American-made electricity, while building the infrastructure to electrify major sectors of our economy, meet the existential threat of climate change,"¹ and, at the same time, "power new demand for American products, materials, and services."² AAM enthusiastically agrees with President Biden's remarks made during his signing of the January 25, 2021 executive order to enhance domestic content preference policies:

¹ <https://joebiden.com/clean-energy/>

² <https://joebiden.com/made-in-america/>

“American manufacturing was the arsenal of democracy in World War Two, and it must be part of the engine of American prosperity now. That means we are going to use taxpayers’ money to rebuild America. We’ll buy American products and support American jobs, union jobs.”³

The details of such an ambitious policy framework are critical to ensuring that the Administration can live up to its commitments to both address its climate goals and rebuild our manufacturing sector. A poorly constructed or rushed policy could result in U.S. tax dollars purchasing foreign-manufactured iron, steel, manufactured products, and construction materials instead of those produced by American workers. To successfully capitalize on this opportunity, AAM urges the administration to weigh the following factors directly relevant to the formation of a “Buy Clean” procurement policy:

- **American workers have been subjected to decades of flawed economic policy.** Any potential procurement policy framework that directly or indirectly undermines U.S. manufacturing capabilities or incentivizes imports is wrongheaded and will continue to erode U.S. manufacturing capacity and undermine the potential beneficial impact of a Buy Clean policy. American workers have already been subjected to decades of unfair trade and flawed economic policies that encourage offshoring. American workers can ill-afford a self-inflicted, flawed policy framework biased towards imports. According to the Economic Policy Institute (EPI), at least 3.7 million U.S. jobs were displaced due to the surging trade deficit with China between 2001 and 2018 – with three-fourths of those losses in manufacturing.
- **Procurement policies should support American workers, not imports.** The well-intentioned effort to minimize the risk of climate change in federal acquisitions must be guided by market signals that incentivize capital investments and expansions of productive capabilities in the United States – not by promoting an increased reliance on imports. American workers stand ready to manufacture the iron, steel, manufactured products, and construction materials necessary for the development of renewable energy and energy efficiency. The collective power of the United States labor force, combined with American ingenuity, make our nation well-positioned to achieve its environmental goals. Moreover, U.S. environmental laws and regulations do not have extraterritorial application. The best way to ensure that products and materials procured by the government meet the high standards imposed by U.S. environmental safeguards is to ensure the product is made in the United States, in accordance with U.S. laws.
- **Existing domestic content preferences support cleaner procurement, and more should be done to strengthen their application and enforcement.** It should be well-understood that there are already domestic content preference laws applied to federal procurements – including the Buy American Act (BAA) of 1933 – which strengthen our manufacturing base, create jobs in the United States, and encourage investments in the American economy. At the same time, domestic component content preference policies ensure that taxpayer-funded investments align with the highest labor and environmental standards in the world. Strong Buy America policies act to prevent shifts in production to countries that rely on practices that are significantly less energy efficient and far more polluting than here in the United States. AAM is a staunch proponent of the administration’s efforts to improve the BAA by increasing content thresholds, but more can and must be done to improve the BAA. Its already permissive origin standard is further eroded by broad exclusions such as the COTS waiver, which applies to many of the most carbon-intensive products procured by the government, altogether waived under various trade agreements, and diluted by unnecessary waivers and poor data collection. Moreover, the permissive origin standards imposed by the COTS exception and where the TAA is applicable allow

³ Available at: <https://www.whitehouse.gov/briefing-room/speeches-remarks/2021/01/25/remarks-by-president-biden-at-signing-of-executive-order-on-strengthening-american-manufacturing/>

the sourcing of *all* a product's components from the most polluting nations in the world. The administration should continue working to improve the BAA, as it has the potential to support cleaner procurement of goods produced under U.S. environmental standards.

- **Congress has provided the tools for American-made infrastructure.** Separately, the administration should fully implement the “Buy America” tools provided by Congress in the Infrastructure Investment and Jobs Act (IIJA), which enhance existing Buy America policies to cover more federally assisted infrastructure programs and more inputs used for construction (iron, steel, manufactured products, and construction materials). Robust application of this law will ensure that American workers manufacture the products necessary to deploy clean energy infrastructure across our nation. Prioritization should be given to the entire supply chain, including upstream material inputs used to construct electric vehicles, chargers, our electrical grid, and many other forms of critical energy infrastructure.
- **“Buy Clean” policies should enhance, but not undermine or conflict with “Buy America(n)” policies.** Any potential “Buy Clean” policy framework should build upon, but not in any way undermine, existing domestic content preferences. One way that this can be achieved is by factoring embodied carbon emissions in procurement decisions. The utilization of domestically sourced materials in federal acquisition provides comparative environmental benefits versus sourcing abroad due to the added carbon footprint associated with global shipping and other Scope 3 emissions. Ensuring that production of needed materials results in the fewest GHG emissions possible requires, wherever feasible, eliminating the embodied carbon emissions associated with production abroad that is subsequently imported into the United States.
- **China and other nations’ globally significant and demonstrable carbon-intensive factory output must be contemplated.** Domestic steelmakers and downstream fabricators are more environmentally friendly than their counterparts across the world, including those countries aggressively seeking to dominate global production of clean energy manufacturing through predatory state investments and overcapacity that stifles opportunities for U.S. production and innovation. One analysis found that U.S. steelmakers spend 80 percent more than their Chinese counterparts per ton of steel to limit air and water pollution levels, equal to an annual subsidy for China’s mills of more than \$1.7 billion.⁴ The environmental implications of this disparity between environmental safeguards applied to steelmaking in the United States versus those applied and enforced on steelmaking in China have only worsened since the publication of that report, as China’s share of global steelmaking capacity grew from less than 40 percent in 2009 to approximately 50 percent by 2019.⁵ Moreover, China’s share of the world’s total steel production reached an astounding 56.5% by 2020.⁶ Further, any efforts to standardize reporting data or to rely on emissions reduction commitments by the Chinese government or Chinese producers must contemplate longstanding transparency concerns with respect to China’s environmental and other data, along with its history of flouting trade, human rights, and environmental commitments.
- **In order to make the transition to a cleaner economy, we must acknowledge the continued need for energy-intensive products and materials.** In doing so, we must also recognize the significant emissions reductions and future commitments already undertaken by certain domestic sectors. For example, the domestic steel sector is already among the cleanest in the world. A recent study by CRU

⁴ Available at: <https://www.americanmanufacturing.org/research/an-assessment-of-environmental-regulation-of-the-steel-industry-in-china/>

⁵ Data available at: https://stats.oecd.org/Index.aspx?datasetcode=STL_STEEL_MAKINGCAPACITY

⁶ See <https://www.worldsteel.org/media-centre/press-releases/2021/Global-crude-steel-output-decreases-by-0.9--in-2020.html>

International that was commissioned by the Climate Leadership Council (CLC), entitled “Leveraging a Carbon Advantage: Impact of a Border Carbon Adjustment and a Carbon Fee on the US Steel Industry,” documented that the American steel industry is the cleanest in the world and is 75 to 320 percent more carbon efficient than global producers. The report found that “America produces steel while emitting less carbon dioxide than all of our major competitors.”⁷

- **Future emissions reductions by domestic producers are achievable but rely on costly technology developments and a stable market for returns on these investments.** The technologies and processes to further reduce emissions in energy intensive trade exposed industries (EITE) are becoming clearer with each passing day. But after years of deindustrialization driven in large part by predatory imports and distorted markets, many manufacturers have not enjoyed the market conditions necessary to make such upgrades. Robust federal support for demonstration projects to validate the acceleration of carbon capture and removal and other green technologies is necessary for clean energy and climate innovation. Moreover, providing appropriate market signals that favor cleaner, U.S.-produced goods will boost the confidence of the EITE sectors to make necessary investments that will further drive emissions reductions. In addition, carefully calibrating the timing for implementation of a “Buy Clean” policy framework is vital, as these sectors will be asked to meet new requirements while at the same time still experiencing difficulties from the global pandemic and distorted markets due to overcapacity and foreign government state-driven industrial policies.
- **Appropriate consideration must be given to different production processes in the steel industry.** It is critical that any “Buy Clean” policy framework not unjustly favor one production process over another in the steel sector, where electric arc furnaces (EAFs) and integrated mills that use basic oxygen furnaces (BOF) are both present. BOFs create steel from iron and alloying elements. EAFs manufacture steel from post-consumer steel waste (aka steel scrap). BOFs make certain types of steel that cannot be made in EAFs; there is not enough existing steel waste to rely solely on EAFs; and, BOFs have significant employment effects, including many union jobs throughout the production process. This includes upstream raw materials, downstream steel production, finishing, and fabrication.

AAM applauds the administration’s continued promise to strengthen of domestic manufacturing and support American factory workers. We look forward to working with the administration as it continues evaluating a policy framework that grows U.S. manufacturing capabilities and addresses climate goals through federal procurement. Thank you for the opportunity to share our views.

Sincerely,



Scott N. Paul
President
Alliance for American Manufacturing

⁷ Available at: <https://clcouncil.org/reports/leveraging-a-carbon-advantage-key-findings.pdf?v3>