



June 12, 2024

Mr. Andrew Mayock
Chief Sustainability Officer
Council on Environmental Quality
730 Jackson Place NW
Washington, DC 20503

Mr. Ali Zaidi
Assistant to the President &
National Climate Advisor
The White House
1600 Pennsylvania Avenue NW
Washington, DC 20500

Mr. John Podesta
Senior Advisor to the President for
Clean Energy Innovation and Implementation
The White House
1600 Pennsylvania Ave NW
Washington, DC 20500

Dear Mr. Mayock, Mr. Podesta, and Mr. Zaidi:

As the heads of the offices tasked with the implementation of the Federal Buy Clean Initiative and the corresponding policies in the Inflation Reduction Act, we write to thank you for your leadership as well as to highlight additional actions we believe necessary to build on the success enjoyed to date and ensure these policies have a more meaningful and positive impact.

The transformational investments included in the Inflation Reduction Act, coupled with the procurement preferences of Buy Clean policies, are actively spurring an increase in embodied emissions transparency and disclosure with over 5,000 new environmental product declarations (EPDs) generated in a 6-month time period.ⁱ Moreover, with the right implementing policies in place, a preference for low-embodied carbon (LEC) construction materials has the potential to incentivize capital investments in the strengthening and decarbonization of domestic manufacturing across all of our industrial sectors. Taken together, this policy framework stands to accelerate the capacity for domestically produced low-carbon infrastructure materials, support good jobs in communities around the country, and reward companies producing cleaner goods while incentivizing fellow domestic competitors to follow suit.

It is with our thanks and appreciation for your and the Biden administration's hard work that we also write to emphasize the critical areas where improvements to implementation must be prioritized. The goal of the Federal Buy Clean Initiative is to promote the use of low-carbon, made in America construction materials to achieve a win-win-win of good-paying American jobs, strengthening domestic manufacturing and competitiveness, and tackling climate change to ensure a healthy planet for the next generation. To quote President Biden's Federal Sustainability Plan, "by providing a large and stable signal to the market for sustainable and low-carbon goods and services made in America, the Federal Government can spur domestic

economic growth.” We believe that with commonsense and harmonized policies, Buy Clean will deliver on these promised benefits.

To ensure this success, the administration should (or continue to) prioritize the following:

1. **Implement a unified cross-agency market signal for low-embodied carbon materials and products purchased directly by the federal government or with federal funds;**
2. **Provide technical and financial support specifically to small and medium-sized enterprises (SMEs);**
3. **Improve communications around federal solicitations; and**
4. **Prioritize stakeholder engagement.**

Implement a unified cross-agency market signal for low-embodied carbon materials and products purchased directly by the federal government or with federal funds

The prospect of reaching the goal of net-zero emissions economy-wide by 2050 while maintaining the United States’ position as a global leader in manufacturing relies on providing certainty to all market participants. The General Services Administration (GSA) sent the crucial first signal, creating a market for low-carbon materials through its six-month pilot procurement program launched a year ago.ⁱⁱ Establishing similar requirements across agencies funded by the Inflation Reduction Act, for LEC materials is essential for the success of Buy Clean policies. As such, it is essential that any agency seeking to implement Buy Clean policies must coordinate with all others to provide a unified market signal that builds on the proven path set forth by the GSA.

This is especially relevant for domestic steelmaking. Steel is produced using two distinct feedstocks: primary steel is predominantly produced from iron-ore pellets whereas secondary steel is produced predominantly from scrap metal. Both steel production pathways are critical to meet growing infrastructure demands and each are distinctly necessary for different applications. Therefore, current Buy Clean programs should aim at spurring market demand for both primary and secondary steel. Given the typically higher emissions intensity of primary steelmaking, a single standard that compares the global warming potential (GWP) of primary steel to that of secondary steel fails to recognize that primary steelmaking will not be replaced with secondary steelmaking. A single standard would not only adversely impact the climate goals of lowering carbon emissions, but also jobs—specifically union jobs by excluding domestic primary producers from Buy Clean markets, risking further displaced production—and therefore leaking emissions to countries with lower climate standards.

The GSA, in cooperation with the Environmental Protection Agency (EPA), recognized this imperative by distinguishing between primary and secondary steel production processes.ⁱⁱⁱ Following its release of the State Request for Applications,^{iv} the Federal Highway Administration (FHWA) is the next federal agency with dedicated funds from the Inflation Reduction Act poised to set performance requirements for LEC materials. As such, FHWA should incorporate in its solicitation criteria distinct standards for primary and secondary steel just like GSA. Distinct standards will push primary producers to compete with each other to lower emissions, while fostering similar competition among secondary steel facilities. A single steel standard would give primary steel producers no incentive to decarbonize and would merely reward secondary producers for their existing business model.

Account for Buy America + Buy Clean Coverage Discrepancies

For years, Buy America laws supported the U.S. industrial and manufacturing sectors by prioritizing domestically produced materials and products. The application of these policies had been limited, however. Over time, Buy America was eroded by loopholes, narrow agency application, excessive use of waivers and weak federal enforcement, all restricting its effectiveness. As a result, massive sums of U.S. taxpayer dollars went to corporations producing these materials and products overseas—often in countries where they can pay workers lower wages and take advantage of lax environmental and labor protections—instead of supporting U.S. supply chains, workers, and communities.

The 2021 Build America, Buy America (BABA) Act in the Bipartisan Infrastructure Law (BIL) begins to address this problem by not only harmonizing and modernizing Buy America rules, but also expanding them to more infrastructure materials, programs, and projects. While waivers are still available in select circumstances to overcome short-term market limitations, this is the broadest expansion of Buy America in decades. Its strengthening fulfills the overwhelming demand of taxpayers to close loopholes, provide more oversight, and better support U.S. manufacturing and good-paying jobs for workers across various sectors.

It is important that Buy Clean policies be implemented concurrently with full implementation of statutory BABA requirements, as failure to do so could have negative outcomes for domestic manufacturers and American workers and undermine critical support for Buy Clean to advance the Biden administration's climate goals. Further, this would not be aligned with the stated intent to grow a cleaner domestic manufacturing sector using the purchasing power of federal acquisition and federal assistance. While federal assistance through FHWA and GSA procurement are subject to Buy America and Buy American policies, respectively, there are many instances when foreign sourcing is permitted—through policy loopholes, waivers, or other policies that narrow their application. For instance, cementitious materials have been statutorily exempted as a “construction material” in BABA, meaning there are no equivalent domestic preferences in place for a variety of carbon-intensive materials like cement, concrete, and asphalt. A successful Buy Clean program that relies first on LEC materials produced by U.S. workers must account for these policy shortcomings. Such a difference in coverage could lead to an increase of imports from overseas, which would likely have EPDs developed outside the jurisdiction of the U.S. government.

Therefore, the accuracy and validity of EPDs is a critical component of appropriate implementation. While third-party verification is required for EPDs in general, given concerns over international EPD comparability, the federal government should support a global auditing and verification system—likely via the United Nations Clean Energy Ministerial Industrial Deep Decarbonization Initiative—and furthermore, the federal government should develop its own verification and/or auditing system to confirm the data for non-Buy America materials originating overseas.

Clarify Key Definitions & Thresholds

While straightforward in concept, incorporating environmental performance criteria in procurement decisions is not easy. Buy Clean asks actors throughout this system to learn new

terms, develop new criteria, and make new decisions that impact billions of dollars of public funding. If the policy is to succeed, the administration must prioritize a consistent set of definitions for new or previously narrowly used terms for such criteria. With a publicly accessible and centralized collection of definitions, stakeholders will be able to cite directly and confidently from government sources and use the same terms for further guidance and education.

Similarly, the thresholds for greenhouse gas emissions/GWP used throughout the Federal Buy Clean Initiative and the corresponding low-carbon purchasing programs included in the Inflation Reduction Act should be based on the same consistent criteria. Additionally, consistent underlying datasets and threshold criteria will help ensure further policy harmonization, establish clarity for the market, and position the overall Buy Clean policy for future success.

By providing increased clarity on terms, requirements, and expectations for the use of federal funds for low-embodied carbon products, the administration will provide a foundation for a low-carbon material market that states, Tribes, and other intranational entities can rely upon and adopt for their own reduction plans.

Maximize Utility of the Federal-State Partnership

The March 2023 establishment and outline of principles of the Federal-State Buy Clean Partnership^v was an excellent step toward ensuring a unified, harmonious market for low-carbon materials. We encourage the federal government to continue to prioritize the Partnership, expand on it, and seek new ways to strengthen the market. Buy Clean will only be successful if market participants are given clarity, certainty, and consistency across the federal-state policy landscape. Failing to do so will result in a patchwork of potentially conflicting policies that would be unworkable for domestic producers and will undermine market signals intended to induce capital investments in cleaner factory production.

First and foremost, the Partnership should lead in the development of a cross-agency, cross-state, data-sharing scheme for any products currently covered by the federal government or individual states. This may include materials currently out of scope of federal agencies, but by sharing and collecting the data utilized by states, agencies will have a clearer understanding of the advantages and disadvantages of expanding federal Buy Clean policies to include such materials in the future.

The Partnership should also collaborate to create a mapping of facilities currently benefiting from, or participating in, Buy Clean procurement programs. For major projects, these facilities should be highlighted and listed, where possible. Public acknowledgement will help drive additional business to these companies, rewarding them for doing the right thing, and providing cleaner products for the market while encouraging competitors to improve and seek similar acknowledgement. Relatedly, the Partnership should also map existing low-embodied carbon production capacity, to help identify regions where further state and/or federal support is needed to develop low-carbon production (especially in concrete and asphalt, which tend to be more regionally traded).

The Partnership should also coordinate to clarify the aggregate volume of materials by type that are subject to the respective federal or state Buy Clean programs and explore opportunities for bulk purchasing, both for the cost effectiveness for the parties involved and to offer increasing

demand signals. Additionally, the Partnership should consider what opportunities there are for advanced market commitments.

Provide technical and financial support specifically to SMEs

Companies of all sizes will be looking to improve emission reduction technologies and embodied emissions reporting due to the significant supply and demand investments made by the federal government. However, smaller and mid-sized manufacturers often lack the necessary resources to make these significant improvements compared to larger manufacturers that can more easily invest in themselves or secure outside financial funding.

For instance, the costs to obtain an EPD for a product can vary greatly, between \$5,000 to \$50,000 according to a study in Washington^{vi} and an international study^{vii} found the average cost to be around \$18,700. In addition to costs, the number of EPDs a company may need can vary greatly by industry. A steel producer may only require one EPD for the rebar it produces, but a concrete manufacturer might have dozens of different product specifications each with their own EPD. Additionally, while cement is made at large manufacturing facilities across the country, the production of concrete is generally a hyper-local industry dominated by small businesses.

To ensure continued and meaningful domestic competition, the federal government should prioritize providing assistance to these small and medium-sized enterprises. While the EPA is tasked with providing that support, SMEs are not specifically identified in statutory language. The EPA should acknowledge that oversight and make use of Task Force membership by engaging the Manufacturing Extension Partnership network to ensure the reach of EPA support is not limited only to those with the resources to stay consistently abreast of all federal opportunities.

Improve Communications Around Federal Solicitations

Federal agencies—and the Buy Clean Task Force writ large—must improve communications around federal contract opportunities and/or solicitations and their timelines. These opportunities should be widely announced well before their opening, and the language surrounding both announcements and solicitations must be communicated in a clearer format and language. Such improvements will be critical for planning purposes across both public and private sectors, serving to improve the impact of Buy Clean programs across the country.

Prioritize Stakeholder Engagement

The success of Buy Clean depends on the insight, feedback, and support of a broad range of partners—including labor, environmental, other non-governmental organizations, and industry stakeholders. We are eager to collaborate to ensure that Buy Clean is ambitious yet achievable, broad yet methodically applied. We understand and appreciate the demands you and your team are under to implement the Federal Buy Clean Initiative and the critical programs of the Inflation Reduction Act. Our intent is to provide you and your teams with the support, counsel, and assistance necessary to build a strong foundation for a cleaner, more equitable economy for all.

Thank you for your consideration.

Sincerely,

Alliance for American Manufacturing
American Council for an Energy-Efficient Economy
BlueGreen Alliance
National Wildlife Federation
NRDC Action Fund
Sierra Club
Third Way
United Steelworkers

Endnotes

ⁱ GSA, Low embodied carbon pilot fact sheet, December 12, 2023. <https://www.gsa.gov/real-estate/gsa-properties/inflation-reduction-act/lec-program-details/lec-pilot-fact-sheet>

ⁱⁱ GSA, Low embodied carbon pilot fact sheet, December 12, 2023. <https://www.gsa.gov/real-estate/gsa-properties/inflation-reduction-act/lec-program-details/lec-pilot-fact-sheet>

ⁱⁱⁱ GSA, Low Embodied Carbon Steel Requirements, December 12, 2023. https://www.gsa.gov/system/files/Steel%20-%20GSA%20IRA%20Low%20Embodied%20Carbon%20Requirements%20%28Dec.%202023%29_508.pdf

^{iv} FHWA, Inflation Reduction Act Section 60506 Low-Carbon Transportation Materials Program Request for Applications. <https://www.fhwa.dot.gov/lowcarbon/rfa.pdf>

^v Office of the Federal Chief Sustainability Officer, Federal-State Buy Clean Partnership Principles, May 2023. <https://www.sustainability.gov/pdfs/federal-state-partnership-principles.pdf>

^{vi} Carbon Leadership Forum, Study of Buy Clean Policy, February 19, 2019. <https://carbonleadershipforum.org/studying-buy-clean-policy/>

^{vii} The International Academy for Production Engineering, International Survey of the Costs of Assessment for Environmental Product Declarations, 2017. <https://www.sciencedirect.com/science/article/pii/S221282711631318X>