



February 3, 2022

The Honorable Thomas J. Vilsack  
Secretary  
U.S. Department of Agriculture  
1400 Independence Ave., SW  
Washington, D.C. 20250

The Honorable Gina M. Raimondo  
Secretary  
U.S. Department of Commerce  
1401 Constitution Ave., NW  
Washington, D.C. 20230

The Honorable Pete Buttigieg  
Secretary  
U.S. Department of Transportation  
Office of the Secretary  
1200 New Jersey Ave., SE  
Washington, D.C. 20590

The Honorable Jennifer M. Granholm  
Secretary  
U.S. Department of Energy  
1000 Independence Ave., SW  
Washington, D.C. 20585

The Honorable Alejandro Mayorkas  
Secretary  
U.S. Department of Homeland Security  
Washington, D.C. 20528

The Honorable Shalanda Young  
Acting Director  
Office of Management and Budget  
725 17th St., NW  
Washington, D.C. 20503

RE: Providing Access to Commercial Information and Communications Technology for Projects Receiving Federal Assistance through the *Infrastructure Investment and Jobs Act*

Dear Secretaries and Acting Director:

Thank you for your leadership in supporting the passage of legislation that makes historic investments in America's infrastructure. We applaud the efforts you have already made to begin implementing the requirements of the *Infrastructure Investment and Jobs Act*, also known as the Bipartisan Infrastructure Law (BIL), and we stand ready to work with you and the Biden-Harris Administration to ensure that projects funded under the BIL can be implemented effectively and expeditiously. To that end, we write to request your assistance in providing greater clarity about the use of BIL funding to procure commercial information and communications technologies (ICT) that are necessary to ensure the success of BIL-funded projects that span a range of industry sectors and promise to create millions of jobs over the next decade, as the White House and other experts have projected.

The BIL includes provisions that impose certain domestic sourcing requirements for acquisitions in a wide range of federally funded infrastructure projects. At the same time, the law does not include customary provisions that would enable procurement of certain key, widely produced and broadly available commercial ICT products, including for automation and cybersecurity in a broad range of public works and broadband projects. As a result, the ability to obtain much-needed infrastructure technologies from the global ICT market in a timely and cost-effective manner could be jeopardized, and funding recipients may be unable to access the most up to date, highest quality technologies at competitive prices, delaying the benefits to be achieved by consumers from these critical projects. The ubiquity of ICT components in a vast array of applications, including virtually every public works project and broadband network, necessitates a strategic, nuanced approach to BIL implementation that takes into account how to procure this equipment in a reasonable time frame. This approach could help to ensure the broader goals of the BIL are met, such as creating good-paying jobs, improving transportation options, upgrading power infrastructure, and providing reliable connectivity to the most vulnerable communities across our country.

Nearly two decades ago, Congress recognized the importance of an exemption for commercial IT to ensure the U.S. Government would be able to access best-in-class, global technology. Since 2004, Congress has included language in every consolidated appropriations bill that expressly exempts commercial IT from *Buy American Act* requirements. In addition, in 2009, the U.S. Department of Agriculture Rural Utilities Service granted a waiver of the Buy American requirements for the broadband projects funded under the *American Recovery and Investment Act of 2009*. This waiver encompassed broadband switching equipment, routing, transport, and access equipment as well as broadband customer premises equipment, end-user equipment that connects to a broadband network, and equipment used in broadband-related billing and operations systems. The National Telecommunications and Information Administration (NTIA) also provided a limited, strategic waiver with respect to certain broadband equipment, including switching, routing, transport, and access equipment, along with end-user devices and billing/operations systems.

However, the BIL does not expressly include similar allowances enabling federal grant recipients to easily incorporate key technologies into the breadth of infrastructure projects supported by the new law. Manufacturers rely on, and consumers benefit from, the existing global supply chains that feed commercial and consumer markets. In the absence of strategic exceptions to the law's domestic manufacturing criteria for grantees receiving broadband and other infrastructure project funding, there is a very real risk of unnecessarily delaying the completion of critical BIL-funded projects. The range of affected projects is far-reaching. For example, these requirements could delay any public works project that requires automation, such as traffic control systems, pumps and treatment systems in sewage and water plants, and even environmental controls in building systems, not to mention smart grid, rail, and other utility projects. The demand created by BIL projects and other market forces for commercial ICT cannot be met by the U.S. electronics production ecosystem alone at present, nor is it possible for U.S. manufacturers to upend existing worldwide networks of suppliers, many of which are located in areas of U.S. allies and trading partners, in response to the BIL.

Although the BIL may allow for limited waivers of domestic sourcing requirements on a case-by-case basis, reviewing each and every individual purchase of commercial ICT could significantly delay critical projects and overwhelm federal officials with requests. Importantly, without including commercial ICT in public works projects, states and localities will not be able to achieve desired energy efficiencies and reductions in carbon emissions, including smart grid and clean transportation solutions, that are realized through the use of automation. Furthermore, any additional, unnecessary delays in deploying broadband in areas of need would mean postponing the economic and social benefits for millions of Americans that flow from a well-connected, digital economy, including greater access to healthcare services, education, small business development resources, and remote working opportunities, among many others.

We urge you to provide a waiver of Buy America requirements to ensure that these much-needed infrastructure projects have reliable access to critical ICT products. Thank you for your consideration of this important matter.

Sincerely,

Information Technology Industry Council (ITI)  
CTIA  
National Foreign Trade Council (NFTC)  
Security Industry Association (SIA)  
TechNet  
USTelecom – The Broadband Association

cc:

The Hon. Chris McLean, Acting Administrator, Rural Utilities Service  
The Hon. Alan Davidson, Assistant Secretary for Communications and Information, National  
Telecommunications and Information Administration  
The Hon. Jen Easterly, Director, Cybersecurity and Infrastructure Security Agency  
Ms. Celeste Drake, Made in America Director, Office of Management and Budget