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December 5, 2023

The Honorable Pete Buttigieg
Secretary
U.S. Department of Transportation
1200 New Jersey Avenue, SE
Washington, DC 20590

Dear Secretary Buttigieg:

On behalf of the 1500 member companies of the American Traffic Safety Services Association (ATSSA), I write to ask the United States Department of Transportation (USDOT) to assist the transportation safety industry by publishing additional information related to the Build America, Buy America (BABA) provisions contained in the Infrastructure Investment and Jobs Act (IIJA). The Office of Management and Budget (OMB) final guidance related to the updated BABA provisions of the IIJA went into effect on October 23rd and there has been considerable concern and confusion across the country on how this guidance will be implemented by state departments of transportation (state DOTs).

Since the effective date of the OMB final guidance, ATSSA has heard from members in various states about the lack of clarity and consistency in the implementation of the new BABA requirements by state DOTs. This lack of uniformity across states is not only creating considerable confusion but is leading to a fear that the BABA implementation will result in 50 states all with different requirements.

OMB clearly anticipated the possible need for further Federal agency implementation guidance and information, stating in the August 23rd Federal Register Guidance for Grant Agreements that: *"Federal agencies, in directly implementing BABA, may issue further guidance and provide further information to their recipients and other stakeholders on their own Federal financial assistance programs for infrastructure."*^[1] Given the impact of this final OMB guidance on ATSSA members and other stakeholders, we ask that USDOT provide the critically necessary clarity to minimize disruptions and address concerns being raised across the country.

ATSSA members are responsible for manufacturing and installing critical, life-saving infrastructure on our nation's roadways and they work hard every day to improve roadway safety. Not providing this guidance in the implementation of the BABA provisions could cause unnecessary delays, cancellations, or increased costs on roadway infrastructure projects – a result that no one wants to see.

We are currently at a critical time in the manufacturing process as inventory would typically be stockpiled for the 2024 construction season; however, the lack of clarity on BABA provisions could mean the inventory they would normally manufacture would not be included/approved for various state Approved Products Lists. It would not be prudent for them to manufacture the

^[1] Office of Management and Budget Federal Register Guidance for Grant Agreement, August 23, 2023 - <https://www.govinfo.gov/content/pkg/FR-2023-08-23/pdf/2023-17724.pdf>

typical inventory only to have it discarded due to non-approval, thus creating a supply chain shortage. This would also result in life saving roadway safety infrastructure not being deployed resulting in increased roadway deaths, which I know we are all working diligently to avoid.

ATSSA members stand ready to assist you and others in this important task. We are your partners. Please do not hesitate to reach out to me with any questions or if we can provide any additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Stacy Tetshcner". The signature is fluid and cursive, with the first name "Stacy" and last name "Tetshcner" clearly distinguishable.

Stacy Tetshcner
ATSSA President and CEO

CC: The Honorable Shailen Bhatt
Administrator
Federal Highway Administration
1200 New Jersey Avenue, SE
Washington, DC 20590