

United States Senate
WASHINGTON, DC 20510

September 13, 2023

The Honorable Pete Buttigieg
Secretary
United States Department of Transportation
1200 New Jersey Avenue, SE
Washington, DC 20590

Rear Admiral Ann C. Phillips, US Navy
(Ret.)
Administrator - Maritime Administration
United States Department of Transportation
1200 New Jersey Avenue, SE
Washington, DC 20590

Dear Secretary Buttigieg and Administrator Phillips,

I write to express my concerns about the U.S. Department of Transportation (DOT)'s limited Waiver of Buy America Requirements for De Minimis Costs and Small Grants (DOT-OST-2022-0124). While I recognize that the waiver is intended to allow DOT and industry to focus Build America, Buy America efforts on the greatest opportunities for American workers, the final rule has the potential to undercut my bipartisan Strengthening Buy America for Small Shipyards Act, which closed a loophole in Buy America policy at the Maritime Administration. I therefore request your assurance that the final waiver is never used to allow taxpayer funded Small Shipyard grants to purchase equipment that is not Made in America.

I worked to include the Build America, Buy America Act in the Bipartisan Infrastructure Law to significantly expand the requirements that federally funded infrastructure projects use American-made iron, steel, construction materials, and manufactured products. A few years ago, in 2019, I worked to pass legislation that closed a Buy America loophole in the Small Shipyard Grant Program in order to support American businesses and workers, like Marine Travelift in Sturgeon Bay, which employs Wisconsin workers and uses Wisconsin-sourced materials to manufacture boat handling equipment. The law requires that products and materials purchased with Small Shipyard grant funding, including commercially available, off-the-shelf items, are manufactured in the United States. It ensures that the grants are used to purchase American products, made by American workers and businesses. My legislation was signed into law as part of the FY2020 National Defense Authorization Act (NDAA) (P.L. 116-92).

DOT's recently finalized waiver did not take into account the concerns of manufacturers like Marine Travelift. Waiving Build America, Buy America requirements for awards under \$500,000 could have an outsized impact on the Small Shipyard program, given that a significant number of awards have historically been below that level. Further, it risks undermining some of the most robust Buy American requirements, which currently exist due to the bipartisan legislation that I authored.

The waiver carries an unacceptable risk of undoing the progress achieved since passage of my legislation. Since the establishment of the Small Shipyard Grant Program in 2008, more than a quarter of all awards have been for less than \$500,000. Further, since there is no cap on the project size for which the waiver could apply, the waiver could have a significant impact on many projects larger than \$500,000 as well. By automatically granting a waiver for the initial

\$500,000 of a project, applicants may be encouraged to pursue larger projects that utilize foreign-made equipment and manufacturing, even when domestic alternatives are viable.

I strongly urge MARAD against approving any Small Shipyard Grant awards for foreign-manufactured products when there are domestic alternatives, even if the awards fall under \$500,000. I am proud of the impact the Small Shipyard Grant Program has had supporting our small shipyards and domestic manufacturers, and I am proud of the Build America, Buy America requirements I worked to include in the Bipartisan Infrastructure Law. There is a better way to ensure the success of both for American workers. I appreciate your attention on this matter and I look forward to hearing from you.

Sincerely,

A handwritten signature in blue ink that reads "Tammy Baldwin". The signature is written in a cursive, flowing style.

Tammy Baldwin
United States Senator