

Biden Administration Issues Guidance on Made in America Executive Order

[On June 11, 2021](#), the Biden Administration issued a memorandum (the “Guidance Memorandum”) providing guidance about the implementation of Executive Order 14005, *Ensuring the Future is Made in All of America by All of America’s Workers* (the “Executive Order”).

By way of background, the central goal of the Executive Order was to increase reliance on the domestic supply chain for federal government purchases “to enable the United States Government to maximize its use of goods, products, and materials produced in, and services offered in, the United States.” The Executive Order also announced the intention to harmonize the use of waivers of the various “Made in America Laws” by federal agencies in federal procurement and financial assistance acquisition scenarios. To promote these objectives, the Executive Order created a Made in America Office (“MIAO”) within the Office of Management and Budget (“OMB”) to oversee federal agencies’ use of waivers from Made in America Laws.

The newly issued Guidance Memorandum now provides initial guidance to covered agencies concerning the implementation of the Executive Order. The Guidance Memorandum states that implementation of the Executive Order and MIAO’s transactional reviews will be undertaken in phases. The initial phase of transactional reviews will take place over the summer, and, during this phase, the reviews will be limited to non-availability procurement waivers and the Jones Act waivers from the 24 agencies subject to the Chief Financial Officers Act (*e.g.*, the Departments of Commerce, Defense, and the Environmental Protection Agency). For purposes of the Guidance Memorandum, a transactional review is a review of a waiver covering a specific business transaction.

In addition, the Guidance Memorandum provides details about four other aspects of the Executive Order’s implementation:

- The creation of a “Senior Accountable Official” for domestic sourcing within each agency who will be responsible for coordinating with the Director of the MIAO and for increasing the agency’s use of U.S. products, materials, and services.
- A requirement that covered agencies issue initial and semi-annual reports on their use of Made in America Laws.
- The standardization of information provided in waiver requests.
- A public website for information about all agency waiver requests.

By July 24, 2021, the head of each covered agency must report on its use of Made in America laws, pursuant to the Executive Order. This report shall address the agency’s implementation of, and compliance with, Made in America Laws, including the agency’s management of waivers.

In sum, the Guidance Memorandum is another indication of the Biden Administration’s “whole of government” approach to addressing deficiencies in the domestic supply chain by leveraging the purchasing power of the federal government.