



December 13, 2023

The Honorable Rick Crawford
Chairman
U.S. House Committee on
Transportation and Infrastructure
Subcommittee on Highways and Transit
2165 Rayburn House Office Building
Washington, DC 20515

The Honorable Eleanor Holmes Norton
Ranking Member
U.S. House Committee on
Transportation and Infrastructure
Subcommittee on Highways and Transit
2165 Rayburn House Office Building
Washington, DC 20515

Chairman Crawford, Ranking Member Holmes Norton and Members of the U.S. House Committee on Transportation and Infrastructure Subcommittee on Highways and Transit:

On behalf of Associated Builders and Contractors, a national construction industry trade association with 68 chapters representing more than 22,000 member companies, we thank you for holding the hearing, "Oversight of the Infrastructure Investment and Jobs Act: Modal Perspectives".

With hundreds of billions of dollars directed to modernize our nation's most critical infrastructure, the modal administrators at the U.S. Department of Transportation are largely responsible for the distribution of these funds that will carry out projects across various transportation sectors throughout communities in the United States. Unfortunately, the DOT has deviated from the bipartisan agreement reached during the IIJA's negotiation, seeking to incorporate partisan language rejected by the House and Senate that would hinder the success of this once in a generation opportunity.

ABC has previously expressed concerns about these administrative actions, including the DOT's efforts to impose unlawful and overly burdensome policies and restrictive labor requirements on key federal infrastructure funds and projects.

Limiting State Flexibility and Authority:

The DOT has sought to impose unlawful federal requirements on states and localities, which could limit their flexibility in implementing the IIJA. The Federal Highway Administration has been the key violator in these efforts with memos and policies that would limit flexibility for states and local communities that are best equipped to determine their transportation infrastructure needs. This includes efforts that have discouraged states from expanding highway capacity and elevating non-motorized transportation projects.

Additionally, the FHWA rule to impose greenhouse gas emissions performance measures on state departments of transportation and metropolitan planning organizations would enact after-the-fact partisan regulations affecting the implementation of the bipartisan Infrastructure Investment and Jobs Act without congressional authority. This ill-advised rule would further burden state and local governments and hinder contractors in forging ahead with much-needed modernization of key infrastructure projects in their communities.

This heavy-handedness from the FHWA differs from the bipartisan negotiated provisions of the law and violates Congressional intent when it comes to the implementation of the IIJA.

Implementation of IIJA and Project Labor Agreements:

ABC has consistently and vigorously opposed government-mandated PLAs and PLA preferences on federal government and federally assisted construction projects, as well as state and local government infrastructure projects. PLAs needlessly increase costs, chill competition and steer hundreds of billions of dollars' worth of construction projects funded by taxpayers to well-connected special interests, i.e., construction unions and contractors signatory to specific construction unions party to a PLA.

Despite this, ABC has identified a significant number of Biden administration federal agency grants—totaling more than [\\$230 billion](#) for infrastructure projects procured by state and local governments—subject to language and policies promoting PLA mandates and preferences that will increase costs and reduce competition on federally assisted construction projects.

The DOT, which has oversight over the vast majority of IIJA funding, has played a key role in pushing these costly and unnecessary agreements. ABC has identified over \$214 billion in DOT grant programs impacted by language preferring PLAs.

For example, in a fiscal year 2023 Rebuilding American Infrastructure with Sustainability and Equity grant program DOT Notice of Funding Opportunity, the department includes pro-PLA preferences for contractors, which were not included in the IIJA.

The RAISE grant program provides federal assistance to state and local government entities for the purpose of major surface transportation infrastructure projects, making at least \$2.275 billion in funding appropriated by the IIJA and other funding sources available.

However, the impact of this funding is undermined by language in the NOFO that attempts to steer these funds toward applicants that require PLAs on their projects. The NOFO includes specific language indicating that PLAs will increase applicants' scores for "partnership and collaboration," improving their chance of receiving RAISE funds.

ABC has urged the DOT to abandon these exclusionary and inflationary policies, and instead welcome the entire construction workforce to participate in rebuilding America's vital infrastructure. ABC would recommend that the committee closely examine the DOT's policies favoring PLAs to ensure DOT is maximizing return on the massive investment of taxpayer dollars represented by the IIJA.

Restrictive Requirements on the National Electric Vehicle Infrastructure Formula Program:

The DOT is also pushing union labor requirements on the National Electric Vehicle Infrastructure Formula Program. The NEVI Formula Program will implement provisions of the IIJA that includes \$7.5 billion for electric vehicle charging stations (including \$5 billion over five years to install EV chargers mostly along interstate highways). The intent of the program is to support the installation of 500,000 electric vehicle chargers across the country by 2030 as part of the administration's push to shift away from gas-powered vehicles.

The final rule contains a number of concerning labor provisions. It requires that all electricians working on electric vehicle supply equipment either be certified by the International Brotherhood of Electrical Workers' Electric Vehicle Industry Training Program or be a graduate or recipient of a continuing education certificate from a government-registered apprenticeship program with a focus on EVSE installation approved by the U.S. Department of Labor in consultation with the DOT. Additionally, the final rule requires all NEVI-funded projects that require more than one electrician to use at least one GRAP-enrolled apprentice.

ABC previously submitted comments in response to the proposed rule and a [request for information](#), urging the DOT to avoid union labor requirements and to instead welcome all qualified contractors to build EV chargers. Unfortunately, the agency disregarded these recommendations in the final rule which took effect on March 30, 2023.

Thank you for your consideration of ABC's concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "Kristen Swearingen". The signature is written in a cursive, flowing style.

Kristen Swearingen
Vice President, Legislative & Political Affairs