

Department of Commerce’s Identification of Federal Financial Assistance Infrastructure Programs Subject to the Build America, Buy America Provisions of the Infrastructure Investment and Jobs Act

In accordance with Section 70913(a) of the Investment Infrastructure and Jobs Act (Public Law 117-58) (IIJA) and consistent with OMB Memorandum 22-08, *Identification of Federal Financial Assistance Infrastructure Programs Subject to the Build America, Buy America Provisions of the Infrastructure Investment and Jobs Act*, the Department of Commerce (the Department) submits the following report.

This report reflects the Department’s initial analysis of its Federal financial assistance programs for infrastructure. This initial analysis errs on the side of over-inclusiveness and includes programs for which funds *may* be obligated for infrastructure. The Department looks forward to OMB’s forthcoming guidance addressing the application of the new domestic content procurement preferences under Section 70914 and is committed to full compliance with them.

The Department administers 84 Federal financial assistance programs, four of which may provide funds for infrastructure projects (the Department’s infrastructure programs):

1. **11.029 Tribal Broadband Connectivity Program (TBCP).** The TBCP, authorized by the Consolidated Appropriations Act, 2021, Division N, Title IX, Section 905(c), Public Law 116-260, 134 Stat. 1182 (Dec. 27, 2020), provides the Department’s National Telecommunications and Information Administration (NTIA) with \$1 billion in federal funding for grants to eligible entities for the deployment of broadband infrastructure on Tribal Lands, including support for the establishment of carrier-neutral submarine cable landing stations. Such infrastructure deployment projects may involve the construction of middle mile or last mile networks as well as interconnection. Applicants may propose projects that deploy new broadband infrastructure, replace antiquated infrastructure, or upgrade or extend existing infrastructure. The Infrastructure Investment and Jobs Act appropriated an additional \$2 billion for the TBCP.
2. **11.031 Broadband Infrastructure Program.** The Broadband Infrastructure Program, authorized by the Consolidated Appropriations Act, 2021, Division N, Title IX, Section 905, Public Law 116-260, 134 Stat. 1182 (Dec. 27, 2020) provides NTIA with \$300 million in federal funding for competitive grants to deploy broadband infrastructure. The Act authorizes grants to covered partnerships (states or political subdivisions of a state and a fixed broadband service provider) for covered broadband projects, defined as competitively and technologically neutral projects for the deployment of fixed broadband service that provides qualifying broadband service (25 Mbps download/3 Mbps upload with low latency) in an eligible service area.
3. **11.300 Investments for Public Works and Economic Development Facilities.** The Department’s Economic Development Administration (EDA) administers the Public Works program authorized by Section 201 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3141), which helps distressed communities revitalize, expand, and upgrade their physical infrastructure. This program enables communities to attract new industry; encourage business expansion; diversify local economies; and generate or retain long-term, private-sector jobs and investment through

the acquisition or development of land and infrastructure improvements needed for the successful establishment or expansion of industrial or commercial enterprises.

4. **11.307 Economic Adjustment Assistance (EAA).** EDA’s EAA program, authorized by Section 209 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3141), provides a wide range of technical, planning, and public works and infrastructure assistance in regions experiencing adverse economic changes that may occur suddenly or over time. These adverse economic impacts may result from a steep decline in manufacturing employment following a plant closure, changing trade patterns, catastrophic natural disaster, a military base closure, or environmental changes and regulations.

The table below provides the number of entities that are participating in and the amount of Federal funds that have been made available for each program for each fiscal year.

Assistance Listing	Number of Entities Participating			Federal Funds Made Available		
	FY19	FY20	FY21	FY19	FY20	FY21
11.029	N/A	N/A	0	N/A	N/A	0 ¹
11.031	N/A	N/A	0	N/A	N/A	0 ²
11.300	72	76	71	\$122,557,300	\$120,220,118	\$125,738,411
11.307	105	117	213	\$355,719,745	\$381,677,193	\$631,039,010

Consistent with Congress’ finding in Section 70911(10) that before the date of enactment of the Build America, Buy America provisions of IIJA a domestic content procurement preference requirement may not apply to Federal financial assistance programs for infrastructure, no “domestic content procurement preference” as defined by Section 70912(2), set forth in Section 70913(b)(2), or consistent with Section 70914 applies to the Department’s infrastructure programs.

That said, the Department’s infrastructure programs include 2 CFR 200.322, a provision from the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards that encourages non-Federal entities to provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products) to the greatest extent practicable. They also include Section G.05.a of the Department’s Financial Assistance Standard Terms and Conditions, which further encourages the recipients to use, to the greatest extent practicable, iron and aluminum as well as steel, cement, and other manufactured products produced in the United States in every contract, subcontract, purchase order, or subaward chargeable under the award. EDA’s infrastructure programs include a third provision, which encourages recipients to purchase American-made equipment and products with the funding provided under the award to the greatest extent practicable.

This report satisfies the requirements of Section 70913 of the IIJA and is accessible at: <https://www.commerce.gov/oam/policy/financial-assistance-policy>.

¹ For 11.029, \$1 billion was appropriated in FY21; however, no awards were issued in FY21.

² For 11.031, \$300M was appropriated in FY21; however, no awards were issued in FY21.