



THE SECRETARY OF EDUCATION

WASHINGTON, DC 20202

MEMORANDUM

TO: Assistant Secretary for Elementary and Secondary Education
✓ Assistant Secretary for Postsecondary Education
Assistant Secretary for Special Education and Rehabilitative Services
Assistant Secretary for Career and Technical Education
Assistant Deputy Secretary for English Language Acquisition

FROM: The Secretary

SUBJECT: Delegation of Authority from the Secretary to the OESE, OPE, OSERS, and OCTAE Assistant Secretaries and the OELA Assistant Deputy Secretary to Issue Final Determinations Related to Waivers Requests from Applicants and Grantees as Authorized in the Build America Buy America Act, Section 70935(b).

I. DELEGATION OF AUTHORITY

Under the authority vested in me by section 412 of the Department of Education Organization Act, 20 U.S.C. § 3472, I hereby delegate to you, your successor in function, or to anyone serving for you in an acting capacity or delegated the authority to perform the functions and duties of your position, the authority to issue final determinations related waivers requests that seek to waive the Buy America Sourcing requirements for Federal financial assistance programs for infrastructures as authorized under section 70935(b) of the Build America, Buy America Act (BABAA)(Pub. L. No. 117-58 §§ 70901-52). In accordance with this delegation, the addressees identified above may consider whether or not to grant waivers and, if they determine any of the following conditions are met, to grant waivers to the Buy America Sourcing requirements when:

1. applying the domestic content procurement preference would be inconsistent with the public interest;
2. types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality; or
3. the inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent.

Unless otherwise noted in future delegations of authority, amendments to the authority cited herein are included within the scope of this delegation.

II. RESERVATIONS

None.

III. REDELEGATION

This authority may not be redelegated except in the event that the delegatee is disqualified because of a conflict of interest or the appearance of a loss of impartiality, in which case they may redelegate their authority to an official who directly reports to them.

IV. CERTIFICATION AND EFFECTIVE DATE

This delegation is effective upon certification by the Department's Delegations Control Officer. I hereby ratify actions within the scope of this delegation taken by you, your predecessors in function, or anyone serving in an acting capacity or officially performing the functions and duties of your position, which involved the exercise of the authorities delegated herein, prior to the date of the certification of this delegation.

_____/s_____
Miguel A. Cardona, Ed.D.

OGC Concurrence and Date: Debbie Friendly, 10/7/2022

Control Number: EA/EP/402

Date Certified: 10/7/2022

Delegations Control Officer: Jim Clemmens