

Questions Submitted for the Record
Submitted by the Honorable David Rouzer
Chairman
Subcommittee on Water Resources and Environment
Subcommittee Hearing on “Clean Water Infrastructure Financing:
State and Local Perspectives and Recent Developments”
Thursday, September 28, 2023

Questions for Ms. Lori Johnson, Assistant Chief, Financial Assistance Division, Oklahoma Water Resources Board, on behalf of Council of Infrastructure Financing Authorities:

1. In her written testimony, fellow hearing witness Ms. Hammer stated that, “Under the Green Project Reserve (GPR) requirement, states do not have strong incentives to educate potential applicants about the benefits of green projects and the availability of GPR funding, nor to assist them with their funding applications.”¹ Does Oklahoma — and other states in general — need mandates to finance green projects?

The Clean Water State Revolving Funds (SRFs) are effective because states can customize their programs to meet the unique public health, environmental and affordability challenges of their communities. Allowing each state to prioritize projects is foundational to the success of the SRFs; flexibility under the broad federal framework ensures the SRFs can be responsive to the most important and ever-evolving needs of people and the environment in each state.

Congress doesn’t provide additional funding for green projects. Instead, Congress mandates that a percentage of annual federal funding be used to fund green projects as defined by the U.S. Environmental Protection Agency (EPA). While well-intended, federal mandates to fund specific types of projects, whether grey or green, undermines this proven state prioritization process. Displacing state priority projects with federally mandated projects may jeopardize public health and environmental protection.

Moreover, the SRFs are subsidized loan programs. Unlike grant programs, loan programs depend on demand from borrowers, who also prioritize funding for projects that are most important, such as for compliance with rigorous water quality standards. In some cases, SRFs must use federal funding as grants or principal forgiveness, instead of subsidized loans, to incentivize green projects. Using federal funding for grants and principal forgiveness permanently eliminates a recurring source of revenue for water infrastructure projects in the future.

As you can see below, Oklahoma has invested 44% of cumulative federal funding since 2008 for green projects, well above the ten percent mandate in recent annual appropriations bills. In fact, every SRF has exceeded the ten percent mandate, largely due to growing demand from borrowers. Because not all water infrastructure projects report their green components, it’s very likely that these percentages underrepresent the total actual investment in green projects.

New or “permanent” mandates are unnecessary. Perhaps more importantly, eliminating the federal mandate for green projects would have little, if any, impact, since many communities, today, routinely incorporate green strategies into their capital improvement plans and projects as a way to improve service, resiliency, outcomes and the bottom-line.

State	Federal Funding since 2008	Spending on Green Projects*	%
Alabama	\$ 253,793,500	\$ 44,288,913	17%
Alaska	\$ 135,627,800	\$ 27,246,401	20%
Arizona	\$ 142,447,100	\$ 40,476,351	28%
Arkansas	\$ 137,939,900	\$ 198,723,531	144%
California	\$ 1,509,112,307	\$ 2,051,670,442	136%
Colorado	\$ 169,344,400	\$ 46,288,996	27%
Connecticut	\$ 258,521,800	\$ 35,649,893	14%
Delaware	\$ 103,252,400	\$ 100,514,706	97%
Florida	\$ 715,349,493	\$ 236,163,068	33%
Georgia	\$ 374,964,216	\$ 311,458,609	83%
Hawaii	\$ 163,088,800	\$ 67,743,334	42%
Idaho	\$ 103,252,400	\$ 131,875,350	128%
Illinois	\$ 954,463,933	\$ 314,966,571	33%
Indiana	\$ 508,606,048	\$ 621,510,310	122%
Iowa	\$ 294,674,200	\$ 130,180,072	44%
Kansas	\$ 190,453,500	\$ 85,701,073	45%
Kentucky	\$ 268,585,200	\$ 62,622,640	23%
Louisiana	\$ 239,430,500	\$ 36,684,426	15%
Maine	\$ 163,319,600	\$ 80,690,046	49%
Maryland	\$ 510,421,657	\$ 216,489,252	42%
Massachusetts	\$ 716,522,029	\$ 140,677,580	20%
Michigan	\$ 907,431,252	\$ 233,160,195	26%
Minnesota	\$ 398,426,165	\$ 149,335,778	37%
Mississippi	\$ 186,500,093	\$ 19,981,710	11%
Missouri	\$ 603,702,512	\$ 236,607,038	39%
Montana	\$ 103,252,400	\$ 27,376,031	27%
Nebraska	\$ 107,626,700	\$ 52,857,503	49%
Nevada	\$ 103,252,400	\$ 44,900,863	43%
New Hampshire	\$ 217,636,900	\$ 69,498,053	32%
New Jersey	\$ 1,053,501,973	\$ 141,788,838	13%
New Mexico	\$ 111,076,700	\$ 42,979,820	39%
New York	\$ 2,753,037,314	\$ 397,612,493	14%
North Carolina	\$ 352,199,248	\$ 148,484,429	42%
North Dakota	\$ 103,926,700	\$ 85,773,132	83%
Ohio	\$ 1,226,374,893	\$ 295,019,116	24%
Oklahoma	\$ 170,457,300	\$ 74,155,749	44%
Oregon	\$ 238,382,700	\$ 43,945,073	18%
Pennsylvania	\$ 835,963,728	\$ 158,030,647	19%
Rhode Island	\$ 141,607,900	\$ 30,651,118	22%
South Carolina	\$ 212,081,670	\$ 42,909,865	20%
South Dakota	\$ 103,252,400	\$ 12,723,217	12%
Tennessee	\$ 306,571,400	\$ 119,457,472	39%
Texas	\$ 923,051,700	\$ 325,840,020	35%

Utah	\$	110,905,500	\$	22,452,523	20%
Vermont	\$	106,526,700	\$	38,792,107	36%
Virginia	\$	431,900,531	\$	192,568,905	45%
Washington	\$	367,033,331	\$	115,470,269	31%
West Virginia	\$	329,262,879	\$	45,098,026	14%
Wisconsin	\$	570,537,777	\$	387,221,250	68%
Wyoming	\$	103,252,400	\$	19,030,389	18%
Puerto Rico	\$	284,720,041	\$	51,553,042	18%
	\$	21,376,623,990	\$	8,606,896,235	40%

*Spending on green projects from 2008 to 2021.

2. You noted that the Federal mandate requiring state revolving fund (SRF) loan applicants to demonstrate adherence to Federal prevailing wage laws is very prescriptive, and creates a significant compliance burden, without actually providing any additional financial benefit to workers.

However, a letter entered into the record during this hearing from the International Union of Operating Engineers suggests that Davis-Bacon compliance is an issue for workers.²

- a. How do you respond to the suggestion that “cheating on prevailing wages is rampant?”³

The Clean Water SRFs don’t have knowledge of “rampant cheating” and the International Union of Operating Engineers didn’t provide any empirical evidence of “rampant cheating” on water infrastructure projects funded by the Clean Water SRFs.

However, the SRFs acknowledge that the prescriptive nature of Davis Bacon can certainly lead to cases of unintentional non-compliance. In states with prevailing wage laws, it is understandable that state and federal requirements, which are different, may be confused. Even federal requirements that seem simple, such as paying weekly, can create the chance of non-compliance for businesses that pay on a different schedule for privately funded work. Lack of published wages for water workers in rural areas can also lead to unintentional noncompliance.

¹ *Clean Water Infrastructure Financing: State and Local Perspectives and Recent Developments, Hearing before the Water Resources and Environment Subcomm. of the H. Comm. on Transp. and Infrastructure, 118th Cong. (Sept. 28, 2023)* (written testimony of Rebecca Hammer, Deputy Director, Federal Water Policy, Natural Resources Defense Council).

² Letter from James T. Callahan, General President, Int’l Union of Operating Engineers, to Sam Graves, Chairman, H. Comm. on Transp. and Infrastructure, David Rouzer, Chairman, Subcomm. on Water Resources and Environment, Rick Larsen, Ranking Member, H. Comm. on Transp. and Infrastructure, and Grace Napolitano, Ranking Member, Subcomm. on Water Resources and Environment (Sept. 28, 2023) (on file with Comm.).

³ *Id.*

⁴ *Infrastructure Investment and Jobs Act*, Pub. L. No. 117-58, 135 Stat. 429.

For example, as I mentioned in my testimony, one borrower whose project spanned two counties didn't change the wages when workers crossed the county line, which led to non-compliance. However, honest mistakes shouldn't be characterized as "rampant cheating."

- a. How may simplifying compliance procedures actually reduce non-compliance and ensure workers are compensated correctly?

Simplifying the compliance processes and procedures would provide the ability to differentiate between contractors who are intentionally underpaying workers from those who may be unintentionally non-compliant. If the processes and procedures are clear and easy to follow, it would be evident which contractors are intentionally breaking the law and not paying the mandated wages.

3. Since 2021, the *Build America, Buy America Act* has required all Federally funded SRF projects to use iron, steel, construction materials, and manufactured products in the United States.⁴ However, inconsistent guidance towards similar types of water infrastructure projects amongst Federal agencies, and even within Environmental Protection Agency (EPA) have caused uncertainty and extra regulatory headaches for important projects. How can the Federal Government streamline *Build America, Buy America* guidelines without raising the cost and extending the timeline for important projects?

Congress should require a uniform set of rules and requirements for compliance with domestic procurement requirements in the Build America, Buy America Act (BABAA) and should eliminate the duplicative mandate for American Iron and Steel (AIS), which adds more paperwork without more protection. Different rules and requirements for the same types of water infrastructure projects will lead to confusion across the water sector and increase the potential for unintentional non-compliance. Consistency will also provide clarity and reliability to manufacturers.

Congress should mandate a timeframe, such as 15 days, for EPA and the Office of Management and Budget Made in America Office (MAIO) to make decisions on waiver requests. Since both EPA and the MAIO must approve each and every BABAA waiver, implementing a deadline for expeditious review will ensure projects stay on time, on track and on budget.

Congress should also consider codifying exceptions or waivers for public health. Unlike other sectors, water infrastructure projects use complex water treatment technologies that are needed to meet rigorous federal water quality standards for safe drinking water and pollution prevention. Public health protections should not be weakened or delayed for compliance with procurement requirements.

Congress should implement the requirements in three phases – phase one for iron and steel, phase two for construction materials, and phase three for manufactured products. Because manufactured products in water infrastructure projects can be highly technical equipment, more time is needed to ensure implementation leads to the long-term success of BABAA.

4. Following passage of the *Infrastructure Investment and Jobs (IIJA)* (P.L. 117-58), the EPA issued a memorandum outlining signage requirements for SRF projects receiving *IIJA* funding.⁵
- a. What requirements do this, and other similar memorandums, add to SRF projects and how do such requirements increase costs?

Although not required by law, The White House Office of Management and Budget (OMB) requires recipients of federal funding from the *IIJA*, even in the form of loans, to post signs at construction sites. EPA applies this mandate as a term and condition of receiving annual federal funding through the SRF capitalization grant.

“The recipient will ensure that a sign is placed at construction sites supported in whole or in part by this award displaying the official Investing in America emblem and must identify the project as a “project funded by President Biden’s Bipartisan Infrastructure Law” or “project funded by President Biden’s Inflation Reduction Act” as applicable. The sign must be placed at construction sites in an easily visible location that can be directly linked to the work taking place and must be maintained in good condition throughout the construction period.”

Signs must display the “Building A Better America Emblem and must identify the project as a project funded by President Biden’s Bipartisan Infrastructure Law.”

Signage requirements apply to projects that are supported by appropriations in the *IIJA*:

- Construction projects identified as “equivalency projects” for general supplemental capitalization grants;
- Construction projects that receive additional subsidization (grants or forgivable loans) made available by general supplemental capitalization grants;
- All construction projects funded with emerging contaminants capitalization grants;
- All construction projects funded with lead service line replacement capitalization grants.

Signage mandates increase the cost of water infrastructure projects, especially if the signs need to be repaired or replaced multiple times during a lengthy construction period. Additionally, prescriptive signage requirements may not accurately or proportionally represent multiple sources of funding, including non-federal sources that exceed the federal contribution, for some projects. Perhaps most problematic is that these signs may lead communities to believe that these water infrastructure projects are funded with a federal grant, instead of a subsidized loan which must be repaid, with interest, by ratepayers.

⁵ Memorandum from Raffael Stein, Director, Water Infrastructure Division, Office of Water, EPA, and Anita Maria Thompkins, Director, Drinking Water Infrastructure Development Division, Office of Water, EPA, to Water Division Directors, Regions I-X (Dec. 8, 2022), (on file with Comm.).

In addition to increasing the cost of water infrastructure projects and potentially misleading the public about the nature of the federal financial assistance (loan vs. grant), the public may confuse these official government notices as campaign signs based on guidance in the brand guide. (See attached.)

- b. Are such signage requirements also in place for projects that are receiving funding from sources aside from *IIJA*?

The EPA requires SRF loan recipients to post signs on construction sites of federally funded or equivalency projects. However, EPA allows other forms of notifications such as press releases, inserts in water bills, and online and social media postings, which provides a cost-effective alternative.

Attachment

INVESTING IN AMERICA

Investing In America Signage Guidelines

The Bipartisan Infrastructure Law

The CHIPS and Science Act

The Inflation Reduction Act

The American Rescue Plan



Guidelines for Logo Applications

The purpose of this document is to provide general guidelines for signs displayed at project sites for projects funded under the Bipartisan Infrastructure Law (also known as the Infrastructure Investment and Jobs Act), the CHIPS and Science Act, the Inflation Reduction Act, the American Rescue Plan, and other Federally-funded projects as appropriate. The first part of this document pertains to signs for Federally-funded projects that are not installed in the highway right-of-way. For highway signage guidance that is MUTCD compliant please see pages 13 and 14. For all other signs please start here. This document provides information about the Investing In America logo mark as well as how logos, marks and seals of states, cities, and counties can be incorporated into signage. Logos of contractors are not permitted on the signage. When logos are included in signage, the placement should conform to these brand guidelines.

Variations and Usage




There is one approved mark associated with the Investing In America logo. To preserve the integrity of the Investing In America logo mark, make sure to apply them correctly. Altering, distorting, or recreating the 'marks' in any way weakens the power of the image and what it represents. Layout and design of signs and communication materials will vary, so care must be taken when applying the logo mark.

Primary Logo Mark

INVESTING IN AMERICA

Colors

The colors, graphics, and fonts used should conform to graphic standards.

COLOR	CMYK	RGB	HEX	PMS
 Blue	83, 48, 0, 48	22 / 68 / 132	#164484	PMS 7687 C
 Red	0, 100, 81, 0	255 / 0 / 49	#FF0031	PMS 185 C
 White	2, 2, 0, 3	242 / 244 / 248	#F2F4F8	Bright White

Logos



White background: logo in red and blue

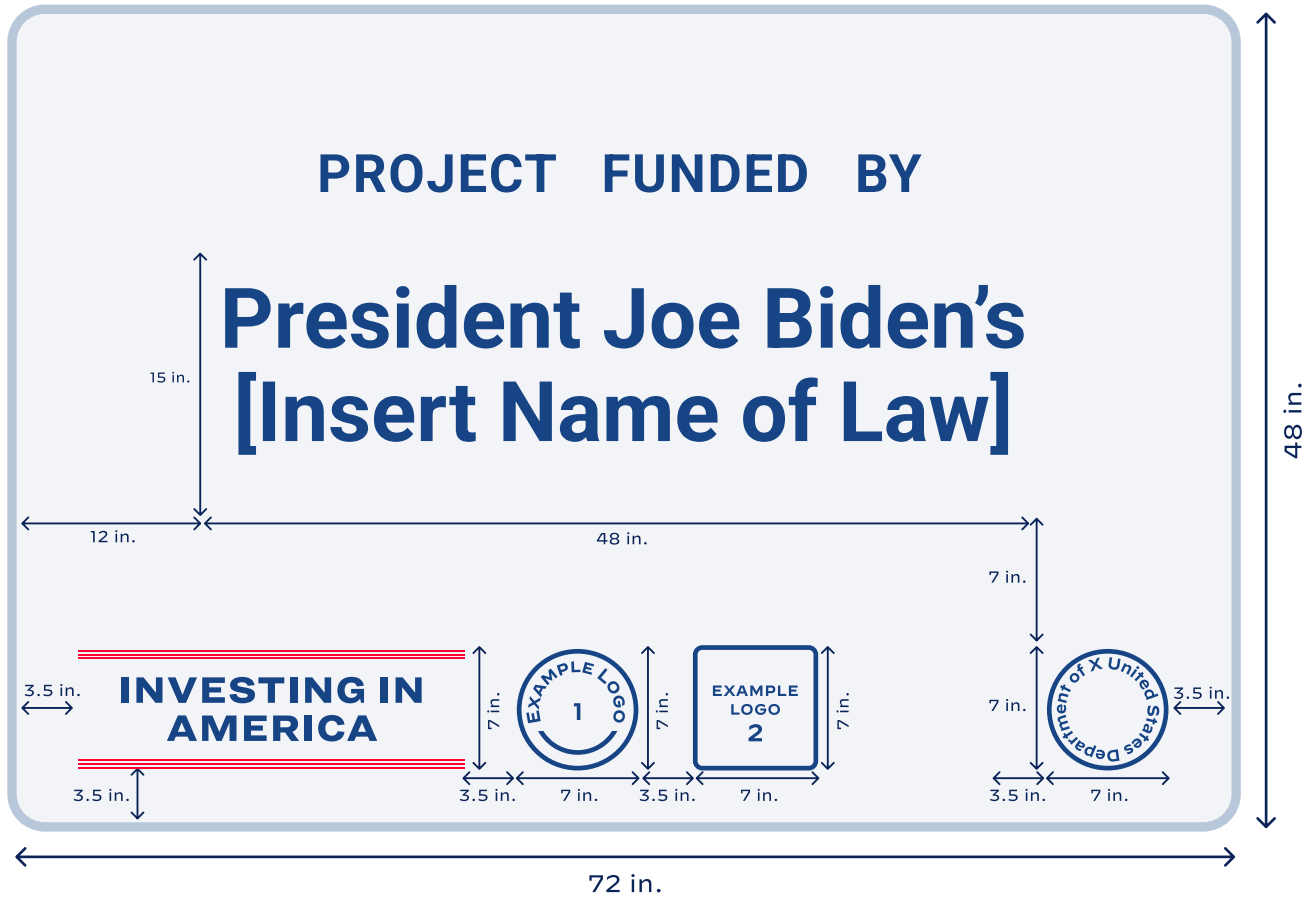


Gray background: logo in red and blue



Blue background: logo in all white

Investing In America General Guidelines for Logo Applications

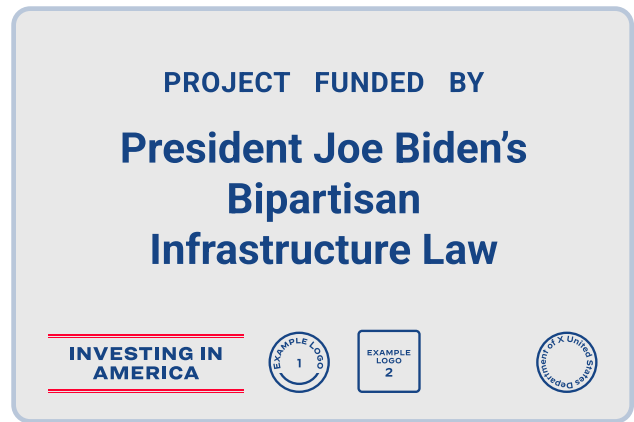


Sign Colors

1. The Bipartisan Infrastructure Law



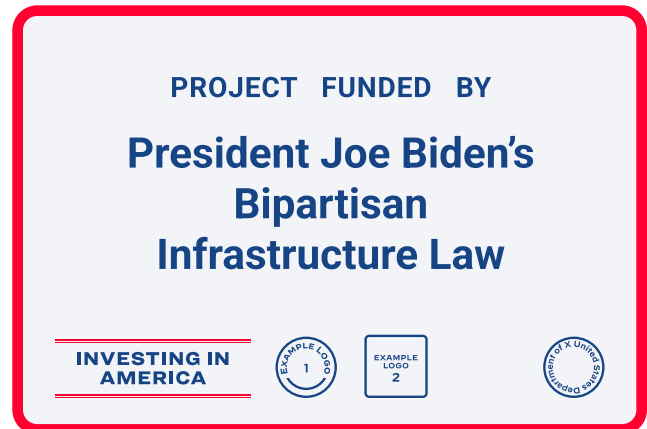
White



Gray



Blue



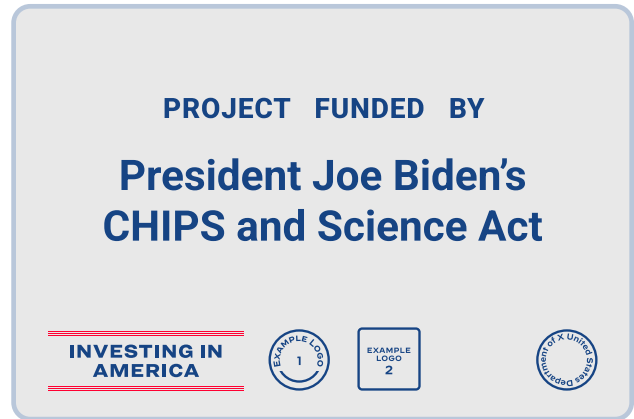
Red Border

Sign Colors

2. The CHIPS and Science Act



White



Gray



Blue



Red Border

Sign Colors

3. The Inflation Reduction Act



White



Gray



Blue



Red Border

Sign Colors

4. The American Rescue Plan



White



Gray



Blue



Red Border

State, City, and County Logo Variations



Square or Circular State Logo: 7x7 in.

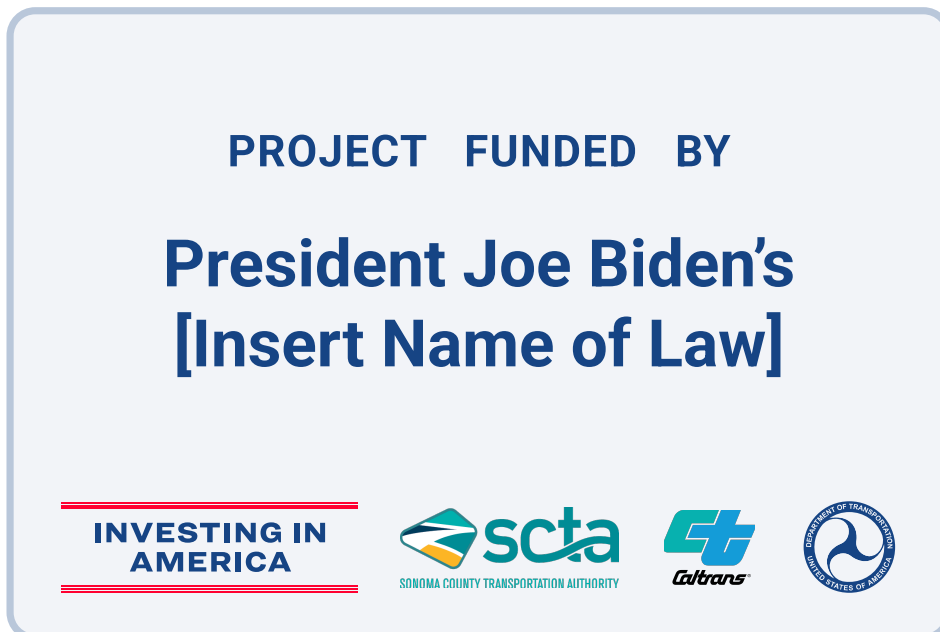


Rectangular or Oval State Logo: **not** to exceed 17.5 x 7 in.

3 Logo Samples



Circular City Logo 7 x 7 in. State rectangular logo should **not** exceed 17.5 x7 in.



Rectangular State Logo: **not** to exceed 17.5 x 7 in.

2 Logo Samples

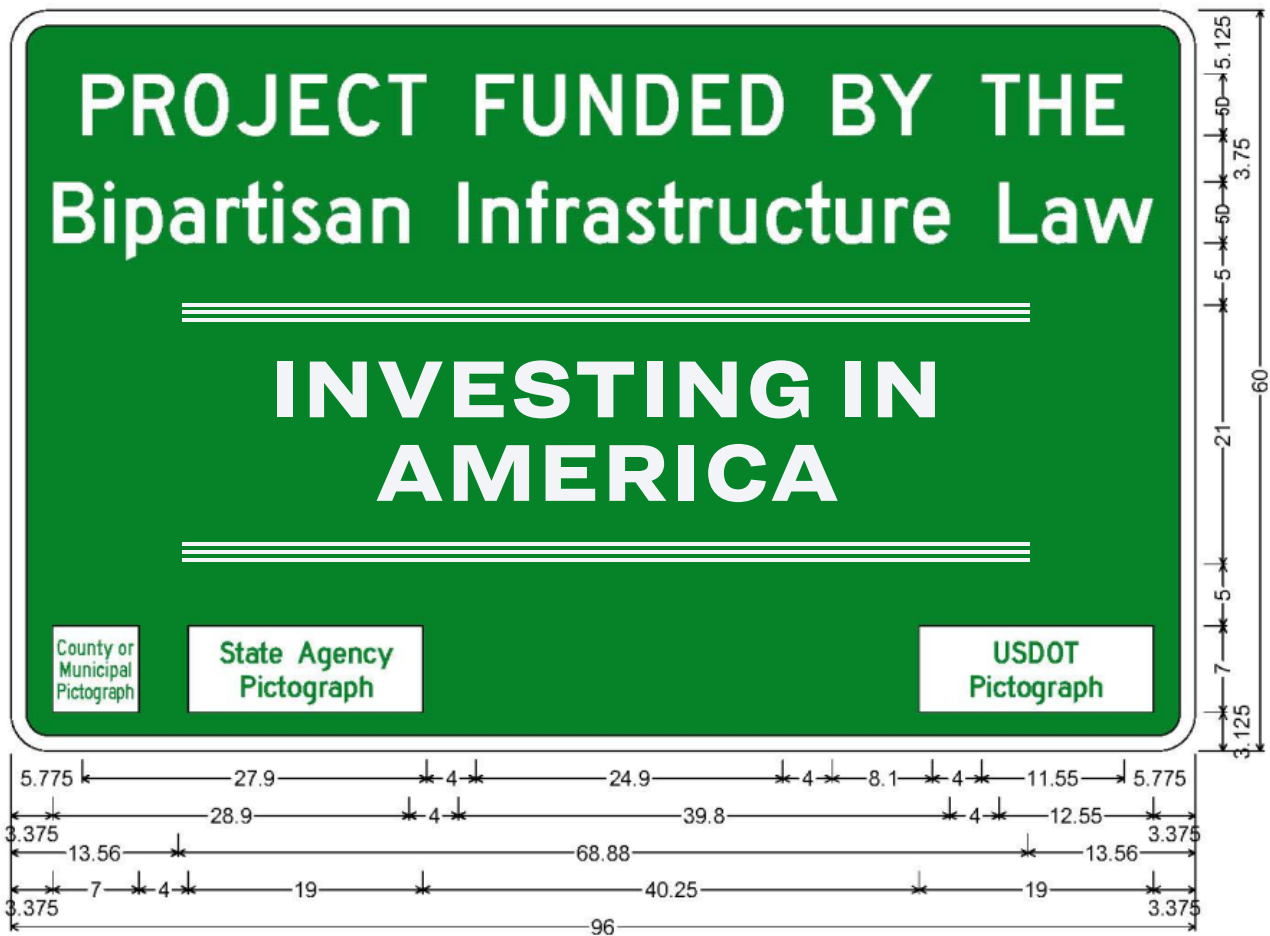


Circular State Logo: 7 x 7 in.

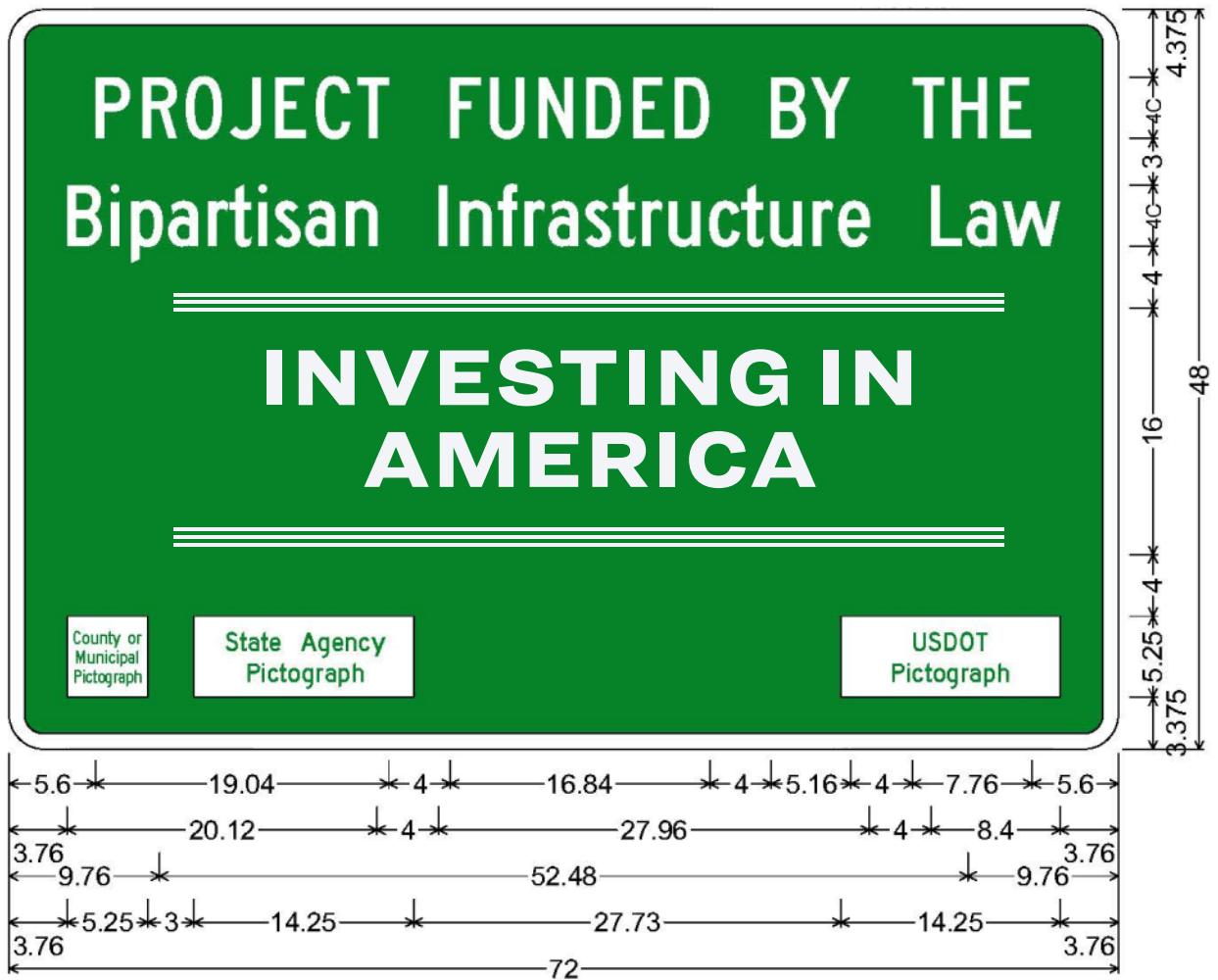


Rectangular State Logo: **not** to exceed 17.5 x 7 in.

Rules for Highway Right of Way Signage 8 Feet



Rules for Highway Right of Way Signage 6 Feet



===== PRESIDENT JOE BIDEN =====

BUILDING A BETTER AMERICA

===== BUILD.GOV =====

THE BIPARTISAN INFRASTRUCTURE LAW

Project Funding Source Sign Assembly

BUILDING A BETTER AMERICA SIGNAGE GUIDELINES

Guidelines for Logo Applications

The purpose of this document is to provide general guidelines for signs displayed at project sites for projects funded under the Bipartisan Infrastructure Law, also known as the Infrastructure Investment and Jobs Act.

The first part of this document pertains to signs for projects funded under the Bipartisan Infrastructure Law that are not installed in the highway right-of-way. For highway signage guidance that is MUTCD compliant please see pages 10 and 11.

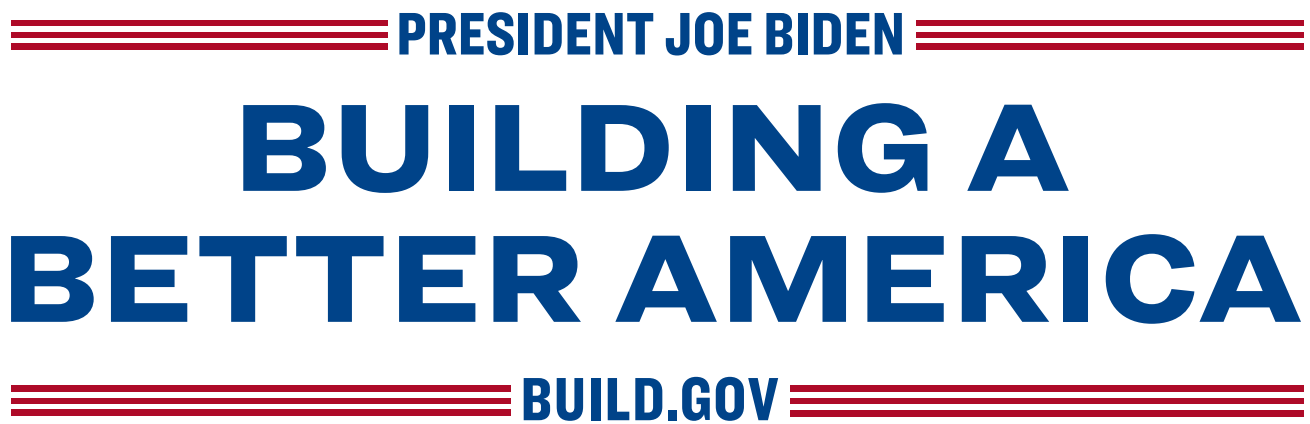
For all other signs please start here.

This document provides information about the Building A Better American logo mark as well as how logos, marks and seals of state, cities and counties can be incorporated into signage. Logos of contractors are not permitted on the signage. When logos are included in signage, the placement should conform to the brand guideline.




Variations and Usage

There is one approved mark associated with the Building A Better America logo. To preserve the integrity of the Building A Better America logo mark, make sure to apply them correctly. Altering, distorting, or recreating the 'marks' in any way weakens the power of the image and what it represents.

Layout and design of signs and communication materials will vary, so care must be taken when applying the logo mark.



The colors, graphics and fonts used should conform to graphic standards.

COLOR		CMYK	RGB	HEX P	MS
	Blue	83,48,0,48	22 / 68 / 132	#164484	PMS7687C
	Red	0,100,81,0	255/0/49	#FF0031	PMS185C
	White	2,2,0, 3	242 /244/248	#F2F4F8	Bright White

Logos

PROJECT FUNDED BY

The Bipartisan Infrastructure Law

PROJECT FUNDED BY

The Bipartisan Infrastructure Law



**U.S. Department
of Transportation**

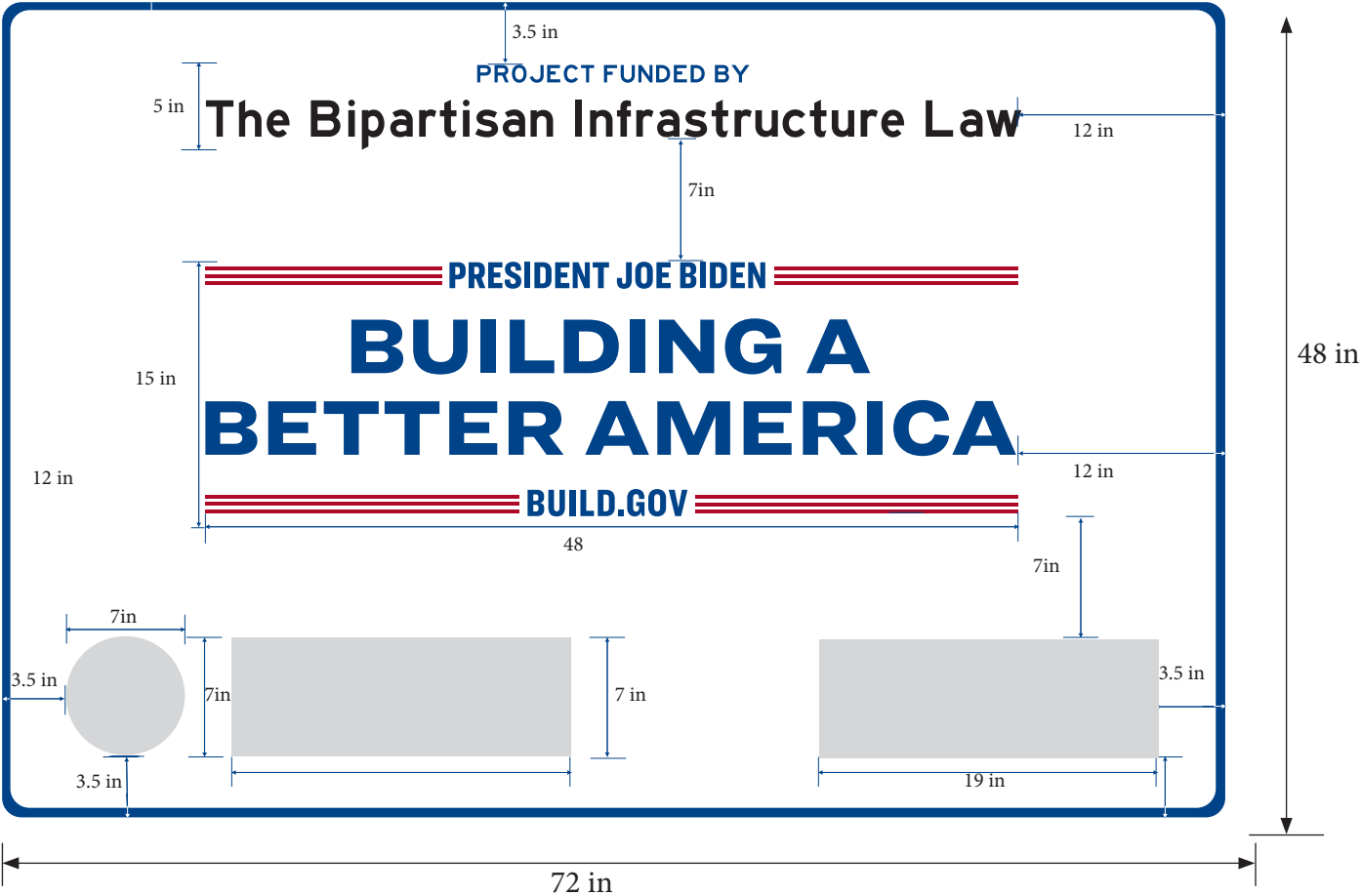
FTA



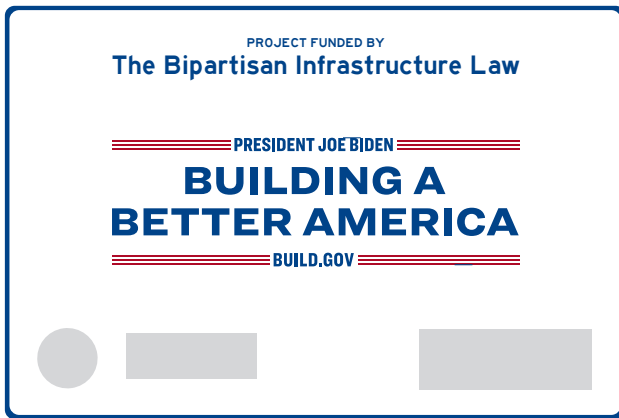
**U.S. Department
of Transportation**

FTA

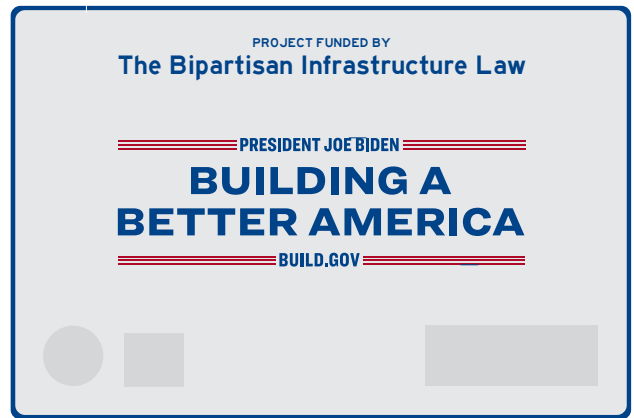
Building A Better America General Guidelines for Logo Applications



Sign Colors



White

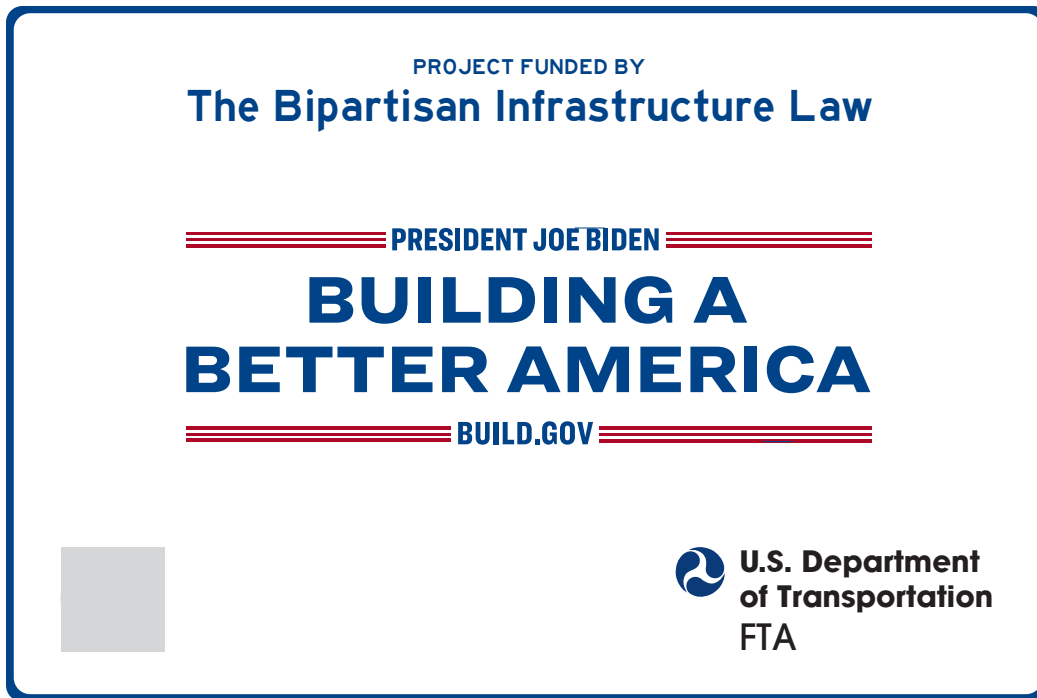


Gray

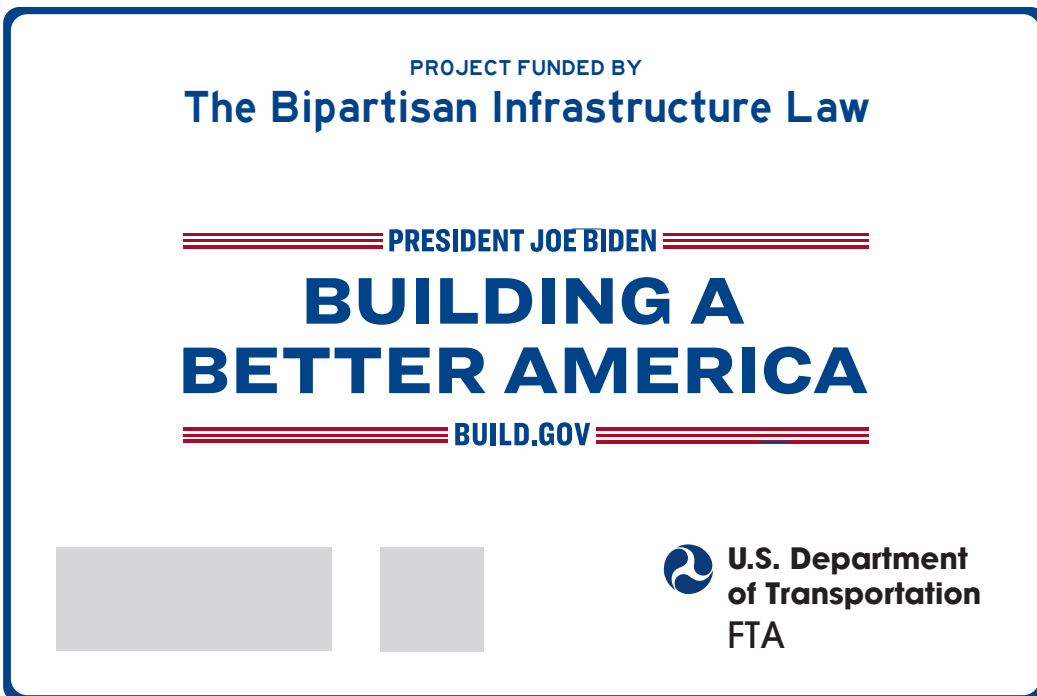


Blue

State, City and County Logo Variations



Square State Logo: 7X7 inches



Rectangle State Logo: not to exceed 19 x 7 inches

3 Logos Samples




PROJECT FUNDED BY
The Bipartisan Infrastructure Law

=====**PRESIDENT JOE BIDEN**=====

**BUILDING A
BETTER AMERICA**

=====**BUILD.GOV**=====

County/City Logo State Logo




City Circle Logo 7 X 7 Inches. State Rectangle Logo should not exceed 19x7 inches

PROJECT FUNDED BY
The Bipartisan Infrastructure Law

=====**PRESIDENT JOE BIDEN**=====

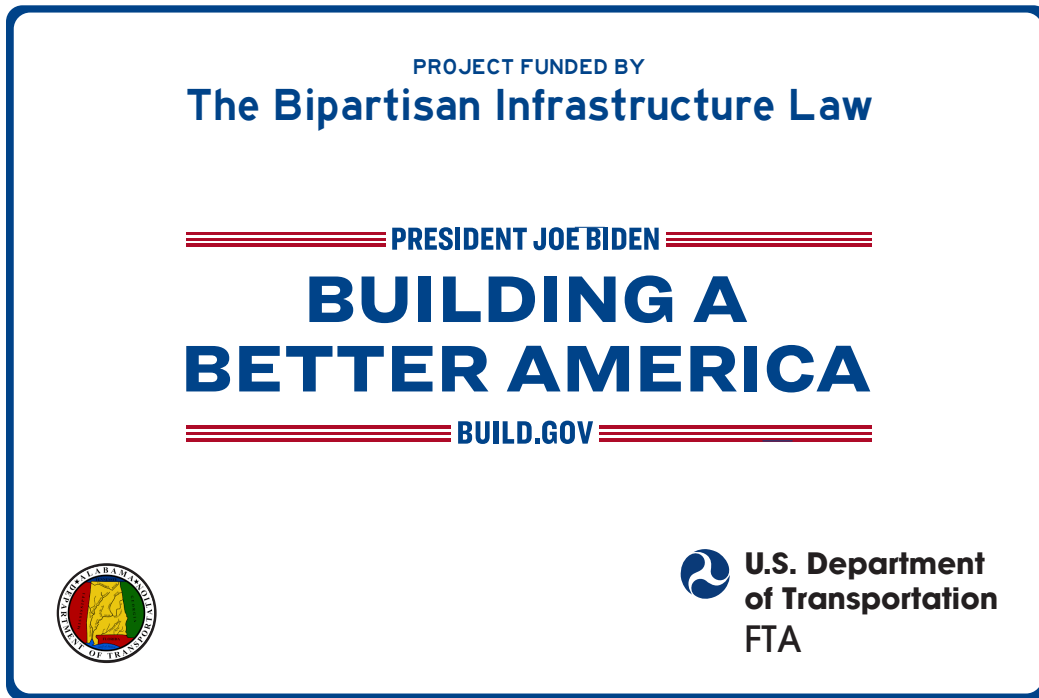
**BUILDING A
BETTER AMERICA**

=====**BUILD.GOV**=====

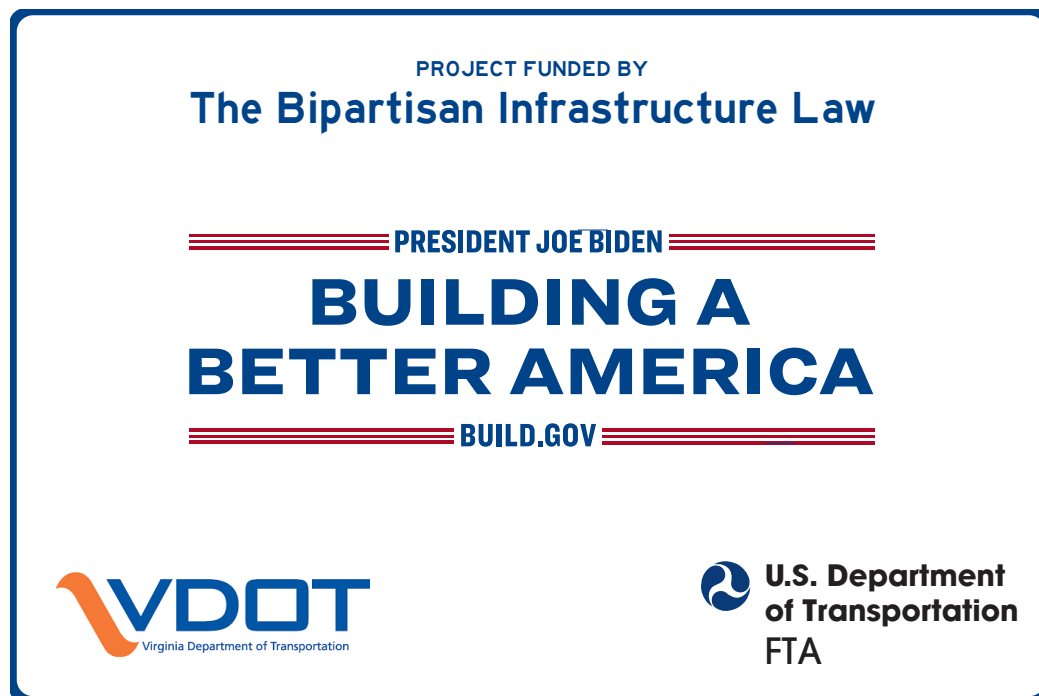
  

Rectangle State Logo: not to exceed 19 x 7 inches

2 Logos Samples



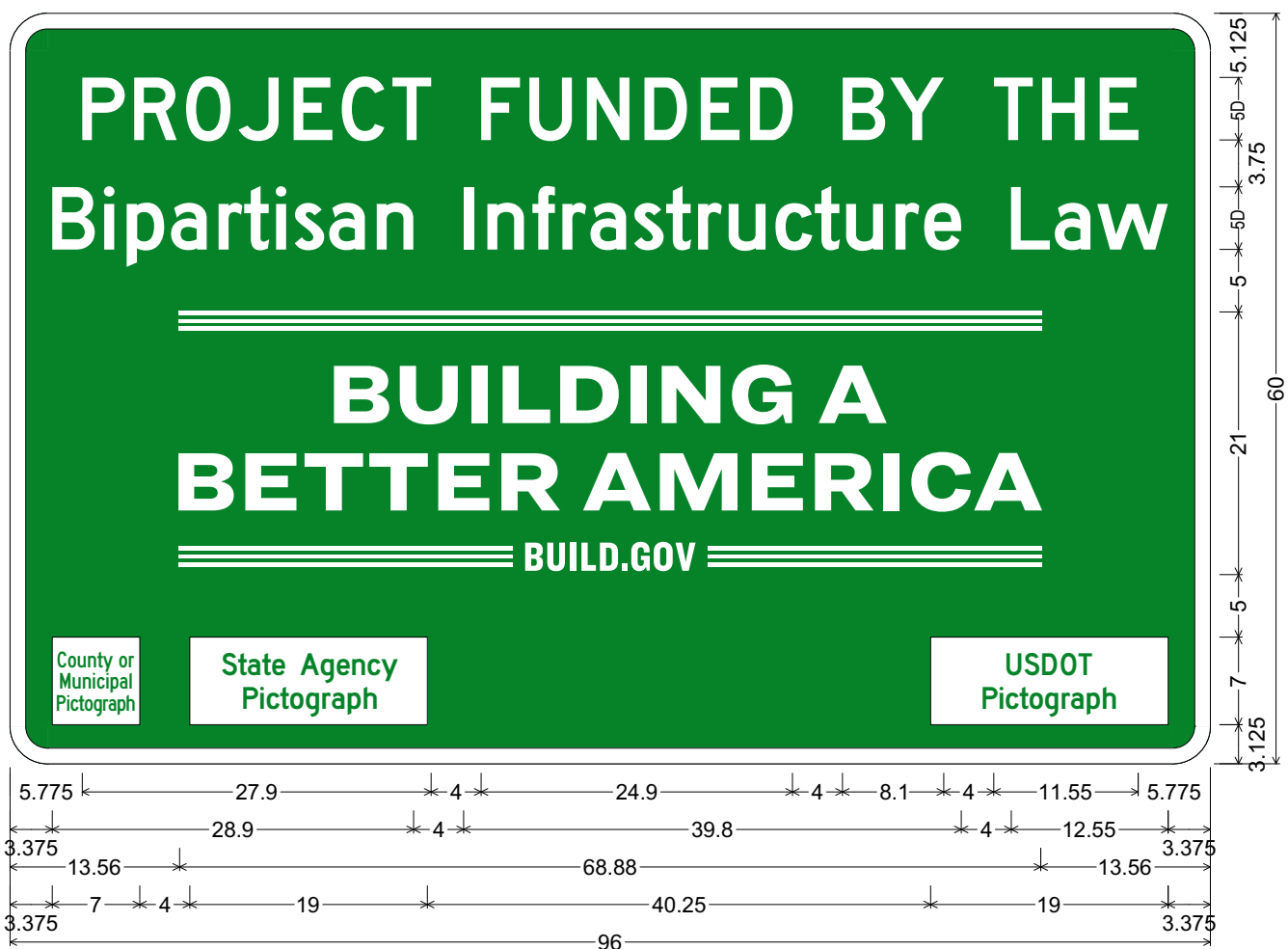
Circle State Logo: 7 x 7 inches



Circle State Logo: 7 x 7 inches

RULES FOR HIGHWAY RIGHT OF WAY SIGNAGE

Highway Right of Way Signage 8 Feet



Highway Right of Way Signage 6 Feet

