



December 2023

# FEDERAL CONTRACTING

## Opportunities Exist to Improve the Reporting of Waivers to Domestic Preference Laws

# GAO Highlights

Highlights of [GAO-24-106166](#), a report to congressional committees

## Why GAO Did This Study

For decades, U.S. manufacturing capability has declined as companies outsourced production to other countries. Various domestic preference laws have been enacted reflecting a preference to purchase U.S. products. These laws permit agency waivers, as appropriate, to contracts and federal financial assistance (e.g., grants).

The Infrastructure Investment and Jobs Act directed GSA to develop a public website displaying information on agencies' use of the waivers. The law included a provision for GAO to review this effort. This report describes (1) GSA actions to implement website requirements and (2) OMB and GSA plans for future website development.

To conduct this work, GAO analyzed statutory provisions, website content, and user feedback. GAO interviewed officials from GSA, OMB, five federal agencies, and industry associations. GAO chose the agencies based on their high use of waivers as of January 2023 and the associations based on internet and database searches.

## What GAO Recommends

GAO is making nine recommendations, two to GSA and seven to OMB, including that they correct reporting errors, provide the capability to report on the remaining waiver type, add audit report results, address user needs, reach agreement on future website development, and identify metrics to gauge effectiveness.

GSA agreed with the two recommendations. OMB generally disagreed or did not comment on the other seven. GAO continues to believe the recommendations are warranted.

View [GAO-24-106166](#). For more information, contact W. William Russell at (202) 512-4841 or [russellw@gao.gov](mailto:russellw@gao.gov).

December 2023

## FEDERAL CONTRACTING

### Opportunities Exist to Improve the Reporting of Waivers to Domestic Preference Laws

## What GAO Found

Buy American and other domestic preference laws, generally require federal agencies and grantees to purchase goods produced in the U.S., but waivers and exceptions (collectively referred to as waivers) to those requirements may apply. The Infrastructure Investment and Jobs Act, enacted in November 2021, gave the General Services Administration (GSA) a year to develop a website where the public could access information on agencies' use of such waivers. GSA released the first iteration of the website in October 2021. As of June 2023, 17 federal agencies had reported information on 745 waivers for items such as laboratory equipment, freight containers, and weapons parts.

Domestic Preference Waivers Reported by Agencies as of June 2023

Waiver type	Examples of waiver use	Number
Nonavailability	Product is not available domestically, in reasonably available commercial quantity and of satisfactory quality	654
Public Interest	The head of an agency determines that domestic preference would be inconsistent with the public interest on a variety of bases, for example, grants below a certain dollar threshold, or to fulfill international trade obligations	67
Urgent needs	An unforeseen and exigent circumstance arises	24
Total <sup>a</sup>		745

Source: GAO analysis of federal agency data. | GAO-24-106166

<sup>a</sup>Total could include some duplicates.

However, key issues remain that need attention and resolution. For example:

- GAO found some errors in agencies' reporting of waivers that have not been resolved.
- The capability to report on one of the seven types of waivers identified by the Office of Management and Budget (OMB) related to unreasonable cost, has not been added to the website, as GSA is awaiting OMB direction to add it.
- The website does not include the results of routine data audits to identify data errors and violation of domestic preference laws, as required.
- Users noted that navigating the GSA website and identifying relevant waivers can be difficult.

OMB and GSA officials indicated that continued improvements to the website are needed. However, they have not agreed on future development plans because they have varying views on how much additional development is needed. They lack fundamental documents and data that could facilitate these decisions. This includes (1) a memorandum of understanding that establishes the extent of future website development and resource needs; and (2) metrics to gauge the effectiveness of the website. Without such an agreement and metrics, OMB and GSA goals will likely continue to be misaligned, future website development could stall, and the website would then continue to not address key user needs.

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## Abbreviations

GSA	General Services Administration
MIAO	Made in America Office
OMB	Office of Management and Budget
SAM	System for Award Management

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December 7, 2023

### Congressional Committees

For decades, U.S. manufacturing capability and capacity have declined as domestic companies outsource the production of their products to other countries. According to a Department of Defense report, manufacturing was 40 percent of U.S. gross domestic product in the 1960s but shrunk to less than 12 percent in 2020.<sup>1</sup>

Congress has passed laws related to domestic preferences to help ensure the country's domestic manufacturing capability and help prevent shifts in production to other countries. These laws establish preferences or requirements for federal agencies to purchase domestically produced goods, products, and materials. However, there are situations in which federal agencies can waive domestic preference laws or in which these requirements do not apply.<sup>2</sup> For example, agencies may procure foreign end products through waivers and exceptions to the Buy American Act, including for nonavailability, unreasonable cost, and public interest reasons. Waivers may be used when a domestic product is not produced in sufficient quantities or when the cost to buy a domestic product would come at an unreasonable cost.

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<sup>1</sup>Department of Defense, *Fiscal Year 2020 Industrial Capabilities Report to Congress* (Washington, D.C.: January 2021).

<sup>2</sup>In this report, we use the term "domestic preference laws" to refer to the defined terms "Buy American laws" and "Made in America laws." The term "Buy American law" as defined in the Infrastructure Investment and Jobs Act means any law, regulation, executive order, or rule relating to federal contracts, grants, or financial assistance that requires or provides a preference for the purchase or use of goods, products, or materials mined, produced, or manufactured in the United States. Pub. L. No. 117-58, § 70932 (Nov. 15, 2021). "Made in America laws" is defined in an executive order and means all statutes, regulations, rules, and executive orders relating to federal financial assistance awards or federal procurement, including those that refer to "Buy America" or "Buy American," that require, or provide a preference for, the purchase or acquisition of goods, products, or materials produced in the United States, including iron, steel, and manufactured goods offered in the United States. Made in America laws include laws requiring domestic preference for maritime transport, including the Merchant Marine Act of 1920 (Public Law 66-261), also known as the Jones Act. Exec. Order No. 14005, 86 Fed. Reg. 7475 (Jan. 28, 2021). We use "domestic preference waiver" to refer to a waiver defined in the Infrastructure Investment and Jobs Act as an exception to or waiver of any Buy American law, or the terms and conditions used by an agency in granting an exception to or waiver from Buy American laws. Pub. L. No. 117-58, § 70932.

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In January 2021, the President issued Executive Order 14005, stating that the government should, whenever possible, procure goods, products, materials, and services from sources that will help American businesses compete in strategic industries and help the American workforce.<sup>3</sup> The executive order also established the Made in America Office (MIAO) within the Office of Management and Budget (OMB). MIAO reviews agency waiver requests to domestic preference laws for covered procurements and federal financial assistance projects to ensure that use of the waivers is consistent with the laws.

Congress has also undertaken efforts to promote waiver transparency. For example, the Infrastructure Investment and Jobs Act required the General Services Administration (GSA) to establish the BuyAmerican.gov website by November 15, 2022, to display waiver information.<sup>4</sup> According to a GSA official, OMB subsequently directed GSA to stand up the site as [madeinamerica.gov](https://www.madeinamerica.gov) to align with the name MIAO.<sup>5</sup> As such, we refer to the website as [madeinamerica.gov](https://www.madeinamerica.gov) throughout this report.

The statute also directed GAO to report on improvements to the collection and reporting of information regarding waivers to what the statute referred to as “Buy American laws,” which we refer to as domestic preference laws. This report assesses the extent to which (1) GSA has implemented requirements to establish the [madeinamerica.gov](https://www.madeinamerica.gov) website and (2) GSA and OMB are planning for future website development.

To assess the extent to which GSA has implemented requirements to establish the BuyAmerican.gov website, we analyzed information on the [madeinamerica.gov](https://www.madeinamerica.gov) website and federal agency links included on the website to determine if the information required by the Infrastructure Investment and Jobs Act and related OMB guidance was included. We analyzed waiver information included on the website and agency links as of June 2023, and we reviewed the data for errors and inconsistencies. We found that the waiver data were sufficiently reliable for the purposes of our review, but we identified some reporting errors, which we describe in our findings.

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<sup>3</sup>Exec. Order No. 14005, 86 Fed. Reg. 7475 (Jan. 28, 2021).

<sup>4</sup>Pub. L. No. 117-58, § 70936.

<sup>5</sup>Users that try to access the BuyAmerican.gov website are automatically redirected to the [madeinamerica.gov](https://www.madeinamerica.gov) website.

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We analyzed user comments provided to GSA through the website and met with representatives from four industry associations to obtain their views on the website design. We also interviewed officials from GSA, OMB's Made in America Office, and the five agencies that reported nearly 85 percent of the waivers included on the website as of January 2023, to identify any challenges that may have affected their ability to implement statutory and OMB guidance. The five agencies included the Departments of Commerce, Defense, Health and Human Services, the Interior, and Veterans Affairs. For purposes of this report, we refer to officials from the Made in America Office as OMB officials.

To assess the extent to which GSA and OMB are planning for future website development, we conducted interviews with OMB and GSA officials to discuss their plans for future website development, as well as agreements the two organizations have that document their roles, responsibilities, and resource needs. We analyzed available website metrics and discussed with OMB officials the metrics they are using to gauge website effectiveness. A more detailed description of our methodology is included in appendix I.

We conducted this performance audit from August 2022 to December 2023 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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## Background

Congress has passed a variety of laws commonly referred to as domestic preference laws that establish preferences or requirements for federal agencies to purchase domestically produced goods, products, and materials. Domestic preferences may apply to contracts and federal financial assistance, such as grants.<sup>6</sup> The Buy American Act, enacted

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<sup>6</sup>Federal financial assistance means assistance that non-federal entities receive or administer in the form of grants, cooperative agreements, non-cash contributions or donations of property, direct assistance, loans, loan guarantees, and other types of financial assistance. Infrastructure Investment and Jobs Act, Pub. L. No. 117-58, § 70912 (2021). Office of Management and Budget, *Initial Implementation Guidance on Application of Buy America Preference in Federal Financial Assistance Programs for Infrastructure*, Memorandum M-22-11 (Washington, D.C.: Apr. 18, 2022).

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during the Great Depression in 1933, is one of the most prominent domestic preference laws.<sup>7</sup>

Since the inception of the Buy American Act, numerous other domestic preference laws have been introduced.<sup>8</sup> In recent years presidents and Congress have also undertaken other efforts to increase opportunities for domestic manufacturers.

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## Congressional and Executive Actions Related to Domestic Preference Waivers

In January 2021, the President issued Executive Order 14005 stating that agencies should maximize the use of goods, products, and materials produced in, and services offered in, the U.S. Furthermore, agencies should promote an accountable and transparent procurement policy.<sup>9</sup> However, agencies may use applicable waivers when they are unable to meet this directive for reasons like nonavailability, unreasonable cost, and public interest, or if there is an urgent need in an unforeseen and exigent circumstance.<sup>10</sup>

As part of an effort to update and centralize the federal government's waiver process, the executive order directed OMB to establish MIAO. Prior to an agency granting a waiver from domestic preference laws, in general, MIAO must review the waiver to ensure that it is consistent with applicable law and policy. Additionally, the executive order, among other things, directed GSA to develop a public website that allows interested parties to easily identify proposed and approved waivers, as well as to provide contact information for each granting agency. One of MIAO's

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<sup>7</sup>Buy American Act, Pub. L. No. 72-428 (1933), as amended, codified at 41 U.S.C. §§ 8301-8305. The Buy American statute generally requires federal agencies to purchase domestic end products for use in the United States. Federal Acquisition Regulation 25.101. A manufactured product is defined generally as domestic if it was manufactured in the United States and the cost of the components mined, produced, or manufactured in the United States is greater than 60 percent of the total cost of the components, subject to exceptions. Federal Acquisition Regulation 25.003.

<sup>8</sup>For example, the Berry Amendment generally requires that food, clothing, tents, certain textile fabrics and fibers, hand or measuring tools, stainless steel flatware, and dinnerware purchased by the Department of Defense be entirely grown, reprocessed, reused, or produced in the U.S. 10 U.S.C. § 4862.

<sup>9</sup>Exec. Order No. 14005, 86 Fed. Reg. 7475 (Jan. 28, 2021).

<sup>10</sup>For the purpose of the executive order, waiver means an exception from or waiver of Made in America laws, or procedures and conditions used by agencies in granting an exception or waiver. Exec. Order No. 14005, 86 Fed. Reg. 7475 (Jan. 28, 2021).

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goals is to bring increased transparency to waivers to send clear demand signals to domestic producers.

In November 2021, Congress passed the Infrastructure Investment and Jobs Act, which contained a similar provision for GSA to develop a website. Some of the key provisions of the act directed GSA to:

- develop an internet website by November 15, 2022, with the address BuyAmerican.gov that is free and publicly available;<sup>11</sup>
- include on the website information on all waivers of and exceptions to “Buy American laws” since November 15, 2021 (the date of the enactment of the act), that have been requested, are under consideration, or have been granted by executive agencies;
- include on the website the results of routine data audits to identify errors and violations of “Buy American laws” after contract award; and
- design the website to enable manufacturers and other interested parties to easily identify waivers.<sup>12</sup>

The act also requires agencies to submit a request to invoke a waiver to these laws to GSA and that GSA make the request available on or through the public website for public comment for not less than 15 days.<sup>13</sup> This would give industry officials an opportunity to notify an agency that their product may meet the agency’s needs. The act further establishes that no domestic preference waiver for the purposes of awarding a contract may be granted if information about the waiver was not made available on the website or no opportunity for public comment concerning the request was granted.

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## Domestic Preference Waivers

OMB requested that GSA develop the capability for agencies to report on seven types of procurement and federal financial assistance waivers to domestic preference laws. These waivers are described in table 1 below.

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<sup>11</sup>According to a GSA official, OMB subsequently directed GSA to stand up the site as [madeinamerica.gov](http://madeinamerica.gov).

<sup>12</sup>Pub. L. No. 117-58, § 70936.

<sup>13</sup>This requirement does not apply to waivers that are used to satisfy an urgent contracting need in an unforeseen and exigent circumstance.

**Table 1: OMB Summary Descriptions of Procurement and Federal Financial Assistance Waivers Agencies are to Include on madeinamerica.gov**

Waiver type	OMB description
<b>Procurement waivers</b>	
Nonavailability	Agencies can report this type of waiver when products and materials are not currently available domestically, in reasonably available commercial quantity and of a satisfactory quality.
Public interest	Agencies can report this type of waiver when the head of the agency determines that domestic preference would be inconsistent with the public interest. This includes when an agency has an agreement with a foreign government that provides a blanket exception.
Unreasonable cost	Agencies can report this type of waiver when the price of a domestic end product is higher than the price of a foreign end product by 30 percent if offered by small business or 20 percent if offered by other than a small business in a civilian agency acquisition, or 50 percent in a Department of Defense acquisition.
Urgent needs	Where there is an urgent need in an unforeseen and exigent circumstance, agencies are not required to make a procurement waiver request available for public comment for 15 days. When the agency has determined it needs to limit competition due to urgency, the agency is required to report a waiver within 30 days of award.
<b>Federal financial assistance waivers<sup>a</sup></b>	
Nonavailability	Agencies can report this type of waiver when the head of the agency finds that the 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.
Public interest	Agencies can report this type of waiver when the head of the agency finds that applying the domestic content procurement preference would be inconsistent with the public interest. This could include project purchases below a certain dollar threshold, small grants, minor components within iron and steel products, and international trade obligations.
Unreasonable cost	Agencies can report this type of waiver when the head of the agency finds that 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.

Source: GAO analysis of selected Office of Management and Budget (OMB) guidance. | GAO-24-106166

<sup>a</sup>Federal financial assistance means assistance that non-federal entities receive or administer in the form of grants, cooperative agreements, non-cash contributions or donations of property, direct assistance, loans, loan guarantees, and other types of financial assistance. Pub. L. No. 117-58, § 70912.

## Agency Roles and Responsibilities for Reporting Domestic Preference Waivers

Multiple agencies have roles and responsibilities for developing the website and reporting and reviewing domestic preference waivers.

- **OMB.** Executive Order 14005 required OMB to establish MIAO, which serves as the central federal organization for promoting domestic preference waiver transparency. OMB provides guidance to federal

agencies for reporting waivers on the [madeinamerica.gov](https://www.madeinamerica.gov) website.<sup>14</sup> Table 2 provides a description of the memorandums that were issued by OMB at the time of our review that are related to domestic preference waivers for procurement contracts and federal financial assistance.<sup>15</sup>

**Table 2: OMB Memorandums Related to How Agencies Report on Domestic Preference Waivers**

OMB memorandums	Issue date	Description
<i>M-21-26, Increasing Opportunities for Domestic Sourcing and Reducing the Need for Waivers from Made in America Laws</i>	June 11, 2021	Provides initial guidance to agencies regarding the Made in America Office’s (MIAO) implementation of Executive Order 14005, including a description of the phased approach for including waivers on the website.
<i>Improving the Transparency of Made in America Waivers</i>	October 26, 2021	Builds on M-21-26 by providing specific guidance to federal executive branch departments and agencies on the use of the digital waiver portal—formerly via SAM.gov and currently via Login.gov—to submit proposed waivers to MIAO. <sup>a</sup>
<i>M-22-08, Identification of Federal Financial Assistance Infrastructure Programs Subject to the Build America, Buy America Provisions of the Infrastructure Investment and Jobs Act</i>	December 20, 2021	Provides initial guidance to agencies on the identification of the programs that agencies must include in 60-day reports required by the Infrastructure Investment and Jobs Act. The act requires that, within 60 days of its enactment, January 14, 2022, each agency must submit to OMB and Congress a report (“60-day report”) listing all federal financial assistance programs for infrastructure administered by the agency. In these 60-day reports, agencies are required to identify and provide a list of which programs are “deficient,” as defined in the act. These agency reports must also be published in the Federal Register.
<i>M-22-11, Initial Implementation Guidance on Application of Buy America Preference in Federal Financial Assistance Programs for Infrastructure</i>	April 18, 2022	Provides implementation guidance to federal agencies on the application of: (1) a “Buy America” preference to federal financial assistance programs for infrastructure; and (2) a transparent process to waive such a preference, when necessary.

Source: Office of Management and Budget (OMB) Memorandums. | GAO-24-106166

<sup>a</sup>System for Award Management (SAM) is the primary government repository for prospective federal awardee and federal awardee information. Login.gov provides identification and authentication for applications and is intended to offer the public secure and private online access to participating government programs.

<sup>14</sup>OMB serves the president of the United States in overseeing the implementation the president’s vision across the Executive Branch. OMB’s mission is to assist the president in meeting policy, budget, management, and regulatory objectives and to fulfill the agency’s statutory responsibilities. OMB is led by the Director of the Office of Management and Budget.

<sup>15</sup>Following the completion of our analysis, the Office of Management Budget issued Memorandum M-24-02, *Initial Implementation Guidance on Application of Buy America Preference in Federal Financial Assistance Programs for Infrastructure*, on October 25, 2023. The memorandum rescinds and replaces OMB Memorandum M-22-11.

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- **MIAO.** MIAO, which is within OMB, is the product owner of the website according to GSA officials. OMB officials told us that MIAO determines what information to include on the website, what the website should look like, and how the website should function. MIAO also provides business and functional requirements to GSA for website development. According to OMB officials, as of June 2023, there are 12 personnel in MIAO: three are full-time employees, including the Director of MIAO. There are also nine personnel from other federal agencies that are detailed to MIAO for 6 months to a year.

MIAO is also responsible for reviewing and making determinations on whether proposed agency waivers are consistent with applicable law and policy established in Executive Order 14005.<sup>16</sup> MIAO provides a determination for each waiver submitted to it, unless otherwise withdrawn or issued to satisfy an urgent contracting need. If MIAO determines that issuing the proposed waiver would not be consistent with applicable law or policy, it returns the proposed waiver to the head of the agency for further consideration. Disagreements between MIAO and the head of agencies are to be resolved in accordance with procedure set forth in Executive Order 12866 “Regulatory Planning and Review.”

According to OMB officials, MIAO holds monthly working group meetings with agencies to communicate requirements, answer questions, and discuss website updates. Additionally, MIAO and GSA offer training to agency contracting officers on how to submit waiver information on the website.

- **GSA.** GSA is responsible for developing the website. According to GSA officials, as the technical lead, GSA develops and maintains the website. Officials also stated that GSA coordinated with MIAO on the website design to help determine which MIAO requirements to implement based on the Infrastructure Investment and Jobs Act and Executive Order 14005. Officials also stated that the agency contracted for the development of the website and has one staff member who oversees the development effort. GSA monitors questions and feedback it receives from users about the website, and officials said GSA provides website data analytics it collects to MIAO

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<sup>16</sup>Office of Management and Budget, *Initial Implementation Guidance on Application of Buy America Preference in Federal Financial Assistance Programs for Infrastructure*, Memorandum M-22-11 (Washington D.C.: Apr. 18, 2022).

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for analysis. GSA is led by the Administrator of the General Services Administration.

- **Executive agencies.** Agencies are responsible for processing and approving all waivers.<sup>17</sup> They also have additional responsibilities for reporting federal financial assistance waivers. If an agency uses this type of waiver, it is required to create a hyperlink to that page for posting on a specific part of the [madeinamerica.gov](https://www.madeinamerica.gov) website. The Infrastructure Investment and Jobs Act also requires that the [madeinamerica.gov](https://www.madeinamerica.gov) website include the results of routine audits to determine data errors and domestic preference law violations after an award of a procurement contract. According to OMB officials, agencies are responsible for conducting these audits.

Agencies are also required to submit biannual reports to MIAO on their compliance with domestic preference laws. Further, the agencies are required to designate a senior accountable official for domestic sourcing.

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## Additional Actions Needed to Ensure Website Fully Meets Statutory Requirements

GSA has taken action to implement the website requirements included in the Infrastructure Investment and Jobs Act, but additional actions are needed by GSA and OMB to fully meet the requirements. GSA developed a website that is publicly available, as required, but information about waivers is currently dispersed on multiple websites. Agencies can currently report on their use of six out of the seven types of waivers identified by OMB, but they are unable to correct reporting errors. OMB has not determined the date when agencies will be able to report on the final waiver type. GSA has also posted the waiver requests on the website for the required public comment period. However, although required, the website does not currently include the results of audits conducted by agencies to determine data errors and violations of domestic preference laws. Additionally, industry users identified various opportunities to improve the website, some of which GSA incorporated.

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<sup>17</sup>Pub. L. No. 117-58, § 70937 requires covered executive agencies to submit waiver requests to GSA to be published on the website for public comment. OMB M-21-26 indicates that MIAO's initial phase of reviewing procurement waivers would include the 24 Chief Financial Officers Act agencies and that MIAO would expand to waivers proposed by non-Chief Financial Officers Act agencies. Office of Management and Budget, *Increasing Opportunities for Domestic Sourcing and Reducing the Need for Waivers from Made in America Laws*, Memorandum M-21-26 (Washington, D.C.: June 11, 2021). Chief Financial Officers Act of 1990, Pub. L. No. 101-576, § 205 (1990).

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**Madeinamerica.gov  
Website Is Publicly  
Available, But Information  
Is Dispersed on Multiple  
Websites**

The Infrastructure Investment and Jobs Act directed GSA to develop an internet website by November 15, 2022, with the address BuyAmerican.gov that is free and publicly available. The website is to include information on all waivers of and exceptions to defined domestic preference laws since November 15, 2021.

**Actions Completed**

GSA released the first iteration of the website—at madeinamerica.gov—to the public in October 2021, prior to the deadline established by the Infrastructure Investment and Jobs Act. We found that the website is free to access and publicly available.

Waiver information is dispersed between the madeinamerica.gov website and federal agency websites. Specifically:

- Information on procurement nonavailability waivers and urgent requirement waivers, as well as some federal financial assistance waivers, is on the madeinamerica.gov website.
- Information on federal financial assistance waivers is included on agency websites. The madeinamerica.gov website has a dedicated page with links to the various agencies' waiver sites where public comments are collected. Figure 1 illustrates the madeinamerica.gov page with the list of agency links.

Figure 1: Madeinamerica.gov Webpage Showing Links to Agency Websites



Source: madeinamerica.gov; leMBERGVECTOR/stock.adobe.com (icon). | GAO-24-106166

### Actions Remaining

OMB directed agencies to provide OMB a link to their federal financial assistance waivers by April 29, 2022, and to cross-post the waiver information to the madeinamerica.gov website by November 15, 2022.<sup>18</sup> GSA officials told us that federal agencies will continue to retain their

<sup>18</sup>Office of Management and Budget, *Initial Implementation Guidance on Application of Buy America Preference in Federal Financial Assistance Programs for Infrastructure*, Memorandum M-22-11 (Washington, D.C.: Apr. 18, 2022); *Improving the Transparency of Made in America Waivers* (Washington, D.C.: Oct. 26, 2021).

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websites so that they can post and obtain comments on federal financial assistance waivers.

As of June 2023, 17 of 26 agencies had active links on the [madeinamerica.gov](https://www.madeinamerica.gov) website. OMB officials stated that they expect agencies to provide a link to GSA once they issue a federal financial assistance waiver. Nevertheless, including active links to all agency websites on the [madeinamerica.gov](https://www.madeinamerica.gov) website, regardless of whether an agency has issued a waiver, would help promote the transparent reporting of federal financial assistance waivers. In the absence of active agency links, website users do not know if an agency has zero federal financial assistance waivers or if the agency is not reporting them on the website.

We also found that some agencies that reported federal financial assistance waivers on their websites had not cross-posted all the waivers on the [madeinamerica.gov](https://www.madeinamerica.gov) website. For example, the Department of Veterans Affairs had not posted two federal financial assistance waivers related to the construction of two nursing home facilities and veteran burial needs. In another example, the Department of Commerce identified six federal financial assistance waivers on its website, but only one waiver was included on the [madeinamerica.gov](https://www.madeinamerica.gov) website.

GSA officials agreed that not all federal financial assistance waivers are included on [madeinamerica.gov](https://www.madeinamerica.gov). The officials hypothesized that agencies may be unaware of their obligation to submit them or that they feel overburdened in having to provide the information twice. Action by OMB to provide an updated date to agencies for cross-posting all their federal financial assistance waivers to the [madeinamerica.gov](https://www.madeinamerica.gov) website would help ensure that all waiver information is in one location. Without doing so, the burden is on website users to visit multiple websites to identify waiver information.

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## Agencies Can Report Use of Six out of Seven Waiver Types but Cannot Correct Reporting Errors

The Infrastructure Investment and Jobs Act directed GSA to develop a [madeinamerica.gov](https://www.madeinamerica.gov) website that included information on all waivers of and exceptions to “Buy American laws” since November 15, 2021 (the date of the enactment of the act). This includes waivers that have been requested, are under consideration, or have been granted by executive agencies.

### Actions Completed

We found that GSA used an incremental approach for providing agencies the capability to report waivers on the website. As of June 2023, agencies were able to report on six of the seven types of waivers identified by

OMB: three of the four types of procurement waivers and all three types of the federal financial assistance waivers.

As shown in table 3, agencies reported over 700 proposed and final waivers as of June 2023. Eighty-six percent of the waivers reported were on procurement contracts for nonavailability reasons.<sup>19</sup>

**Table 3: Domestic Preference Waivers Reported on madeinamerica.gov and Agency Web Links as of June 2023**

Waiver type	Number	Percent of total
<b>Procurement waivers</b>		
Nonavailability	638	86
Urgent requirements	24	3
Public interest	0	0
<b>Federal financial assistance waivers</b>		
Public interest	67	9
Nonavailability	16	2
Unreasonable cost	0	0
<b>Total</b>	<b>745<sup>a,b</sup></b>	<b>100</b>

Source: GAO analysis of federal agency data. | GAO-24-106166

<sup>a</sup>Includes one duplicate federal financial assistance waiver on the madeinamerica.gov website that GAO identified. The waiver has since been removed. Additionally, there may be duplication in the number of federal financial assistance waivers as 59 of them are on agency links and some federal agencies are also reporting these types of waivers on the madeinamerica.gov website.

<sup>b</sup>The total number includes proposed and final waivers.

Agencies used waivers on a range of products. More than 50 percent of the reported waivers were for laboratory equipment and supplies.<sup>20</sup> The other waivers were for items such as medical and surgical equipment; freight containers; weapon components; and electrical equipment components such as circuit breakers. For example, Defense Logistics Agency officials said they use waivers to procure shipping containers because they found that available domestic sources are offered for an unreasonable cost.

<sup>19</sup>According to GSA officials, the ability for agencies to report on nonavailability waivers has been available on the website since November 2021, which may contribute to the higher number of this type of waiver.

<sup>20</sup>Note this percentage is based on the number of waivers in the table, which could include some duplicates.

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Sixteen agencies reported using procurement waivers and 14 agencies used federal financial assistance waivers. The Department of Health and Human Services reported 30 percent of all waivers, the most of any agency. Combined, the Departments of Health and Human Services, Commerce, Defense, the Interior, and Veterans Affairs reported almost 85 percent of all waivers on the website.

## Actions Remaining

GSA has not yet provided agencies the capability to report on the remaining waiver type OMB identified—unreasonable cost for a procurement. According to GSA officials, GSA has already developed the capability and OMB is reviewing the form that contracting officials will have to submit when reporting this type of waiver. The officials also stated that OMB has not established a date by which this capability will be provided. Establishing a date for providing agencies the capability to report on unreasonable cost for procurement waivers will help ensure that OMB prioritizes the completion of its review. Without this capability, federal agencies cannot be transparent about their use of this type of waiver.

In addition, while OMB has stated that it has internal procedures for correcting waiver reporting errors, agencies has not received guidance to do so. For example:

- Based on interviews with officials from the five agencies that reported the most waivers, we learned that 15 procurement waivers used in 2022 are not on the website. The Department of Defense's Defense Logistics Agency accounted for all the missing waivers. Defense Logistics Agency officials stated that they identified the 15 procurement nonavailability waivers after contract award and that the waivers did not go through a public comment period or get reviewed by OMB to determine whether they were consistent with policy. Defense Logistics Agency officials informed OMB about the mistake, but the officials said that they were notified by OMB that it does not accept waivers post award. According to OMB officials, they only allow nonavailability waivers to be submitted at pre-solicitation or pre-award (post-solicitation). OMB does not review nonavailability waivers after award.
- In addition, we identified one federal financial assistance waiver from the Department of the Interior that was recorded twice on the [madeinamerica.gov](https://www.madeinamerica.gov) website and is therefore included twice in the count in table 2. Interior officials told us that the waiver was inadvertently duplicated on the website when a grants officer received an error message while uploading the original waiver and then

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submitted it a second time. Department of the Interior officials informed OMB of the issue, but the duplicate waiver remains, and Interior officials are unable to remove it. GSA officials told us that agencies do not have the capability to remove waivers from the site, but OMB does.

The Infrastructure Investment and Jobs Act requires that the [madeinamerica.gov](https://www.madeinamerica.gov) website generally include information on all waivers of and exceptions to what the statute refers to as “Buy American laws.” While agencies are reporting waiver information on the website, OMB has not developed procedures to correct reporting errors.

In August 2023, OMB officials stated that their actions related to the errors we found were appropriate as either the waivers that we detected were not reviewed by OMB before they were issued—and therefore should not be included on the website—or, alternatively, agency officials could have made the correction themselves. OMB has since confirmed that agencies do not have the ability to edit reported waivers. OMB also stated that the duplicate waiver we identified has been removed from the website and the process for addressing duplicate waivers has been improved. However, OMB did not explain or provide documentation on how the process has been improved. Without procedures for correcting reporting errors, agencies’ use of waivers will likely not be accurately represented on the website.

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### GSA Is Posting Waiver Requests on the Website for Public Comment

The Infrastructure Investment and Jobs Act requires agencies to submit a request to invoke what the statute refers to as a “Buy American waiver” to GSA and that GSA make the request available on or through the public website for public comment for not less than 15 days. The act states that no waiver for the purposes of awarding a contract may be granted if information about the waiver was not made available on the website or no opportunity for public comment concerning the request was granted.

### Actions Completed

Agencies are submitting waiver requests to GSA, and the waivers are posted on or through the [madeinamerica.gov](https://www.madeinamerica.gov) website. The public can provide comments on procurement waiver requests through links on the [madeinamerica.gov](https://www.madeinamerica.gov) website and on federal financial assistance waivers through links to the appropriate federal agency’s website. GSA officials told us that waivers are posted for public comment for 15 days.

As stated earlier, the Defense Logistics Agency issued 15 waivers that were not posted on the website for public comment. According to agency

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officials, they have provided training to their contracting officers to remind them of this requirement.

Actions Remaining We did not identify any additional actions that need to be taken to implement this requirement.

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**Website Does Not Include Results of Audits to Determine Data Errors and “Buy American Law” Violations** The Infrastructure Investment and Jobs Act directed GSA to establish a website that includes the results of routine agency audits to determine data errors and domestic preference law violations after the award of a procurement contract.

Actions Completed As of September 2023, the [madeinamerica.gov](https://www.madeinamerica.gov) website did not yet include the results of agency audits to determine data errors and violations of domestic preference laws after the award of a procurement contract.

Actions Remaining The results of agency audits to determine data errors and violations of domestic preference laws after the award of a procurement contract need to be posted.

Based on our discussions with officials from five agencies, we found that four agencies were aware of the requirement for posting the results of the routine audits but were unclear of their role in meeting it because OMB has not provided any instructions, guidance, forms, or formats to post such audit information. In addition, agencies do not have the ability to post this information. For example, agency officials told us the following:

- The Departments of Commerce and the Interior were aware of requirements related to the inclusion of audit results on the website. These agencies conducted audits and did not identify any errors. However, officials stated that the results of these audits are not posted on the website because they were not directed by OMB to provide that information. Further, a Department of the Interior official stated that, while agencies can post waivers to the website, they do not have the ability to post other information, such as the results of audits.
- Officials from the Departments of Veterans Affairs and Health and Human Services were aware of the requirement to display the results of audits, and anticipated OMB guidance would inform a government-

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wide approach for conducting the audits and posting the results.

- Officials from the Department of Defense were not aware of the requirement related to the inclusion of audit results on the website and have not conducted these types of audits or posted results on the website.

OMB has not issued guidance to agencies on their role in meeting the requirement that the website include the results of routine audits to determine data errors and domestic preference law violations after the award of a procurement contract. According to OMB officials, they have not issued guidance because the Infrastructure Investment and Jobs Act does not require them to do so. OMB officials also stated that the underlying requirement to conduct audits after the award of a procurement contract is primarily the responsibility of the federal agencies awarding contracts. These officials also stated that the audits might also be further informed by subsequent audits and reviews by Inspectors General, or an independent review conducted by GAO. Officials also stated that agencies are responsible for the completeness, accuracy, timeliness, and overall data quality of reports generated for internal and external reporting objectives.

To the extent that audits by agencies, Inspectors General, or GAO determine data errors, OMB officials said that they may consider highlighting findings and best practices for other agencies to enhance overall data quality. As audit information becomes available from federal agencies awarding contracts, OMB officials said that they will also consider including the results of such audits on the website as appropriate to comply with the Infrastructure Investment and Jobs Act.

Providing guidance to agencies on their responsibilities for conducting and posting the results of routine data audits and findings of violations of domestic preference laws would help ensure this information is available to the public. In the absence of OMB guidance, agencies will continue to be unaware of how to post this information on the website and the public will not have access to information related to the quality of the waiver information agencies are reporting on the website and violations of domestic preference laws.

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## Industry Users Identified Opportunities to Improve the Website, but GSA Has Not Conducted User Testing

### Actions Completed

The Infrastructure Investment and Jobs Act directed GSA to design the [madeinamerica.gov](https://www.madeinamerica.gov) website to enable manufacturers and other interested parties to easily identify waivers.

According to GSA officials, GSA obtained feedback on the website’s design from OMB and federal agencies prior to launching the website. GSA also established a link on the [madeinamerica.gov](https://www.madeinamerica.gov) website titled, “How can we improve this site?” to solicit user feedback on the website after it was established.

From November 2021 through June 2023, GSA received 76 comments from industry and agency users about the website. GSA determined that 67 of the user comments it received on the website were actionable and has taken steps to address 31 of them. According to GSA officials, the majority of the requests were for a better search experience. They explained that GSA implements suggestions if they are technically feasible, and the cost is minimal. A GSA official stated that examples of changes GSA made include (1) moving the link to waiver information to a more prominent location to help users navigate the website and (2) adding a search bar to help users identify waivers of interest more quickly.

#### User Comment Requesting a Notification System on the Website

“Can you please implement a way for people like us to sign up to receive an automatic e-mail alerting us to new waivers? This would allow manufacturers to take a quick look and jump in with input when we have it. The chances of me remembering to visit the site once a week, are pretty minimal but maybe the list can be automatically sent once a week.”

Source: User Comments Provided to General Services Administration through [madeinamerica.gov](https://www.madeinamerica.gov). | GAO-24-106166

GSA determined it could not act on some comments at this time due to technical limitations of the system. For example, the text box includes a comment from one industry user suggesting that users be automatically notified when a new waiver is posted for comment to reduce the effort it takes them to identify new waivers.

According to the GSA official, the software component of the website, FORM.io, cannot support an automatic notification system.

GSA determined that the other nine comments were not actionable for various reasons. For example, some users made comments that were not geared toward improving the website.

### Actions Remaining

GSA has not held focus group discussions and conducted user testing with industry users, such as manufacturers.

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Some website users as well as representatives from four industry associations we spoke with identified several challenges with the website design.

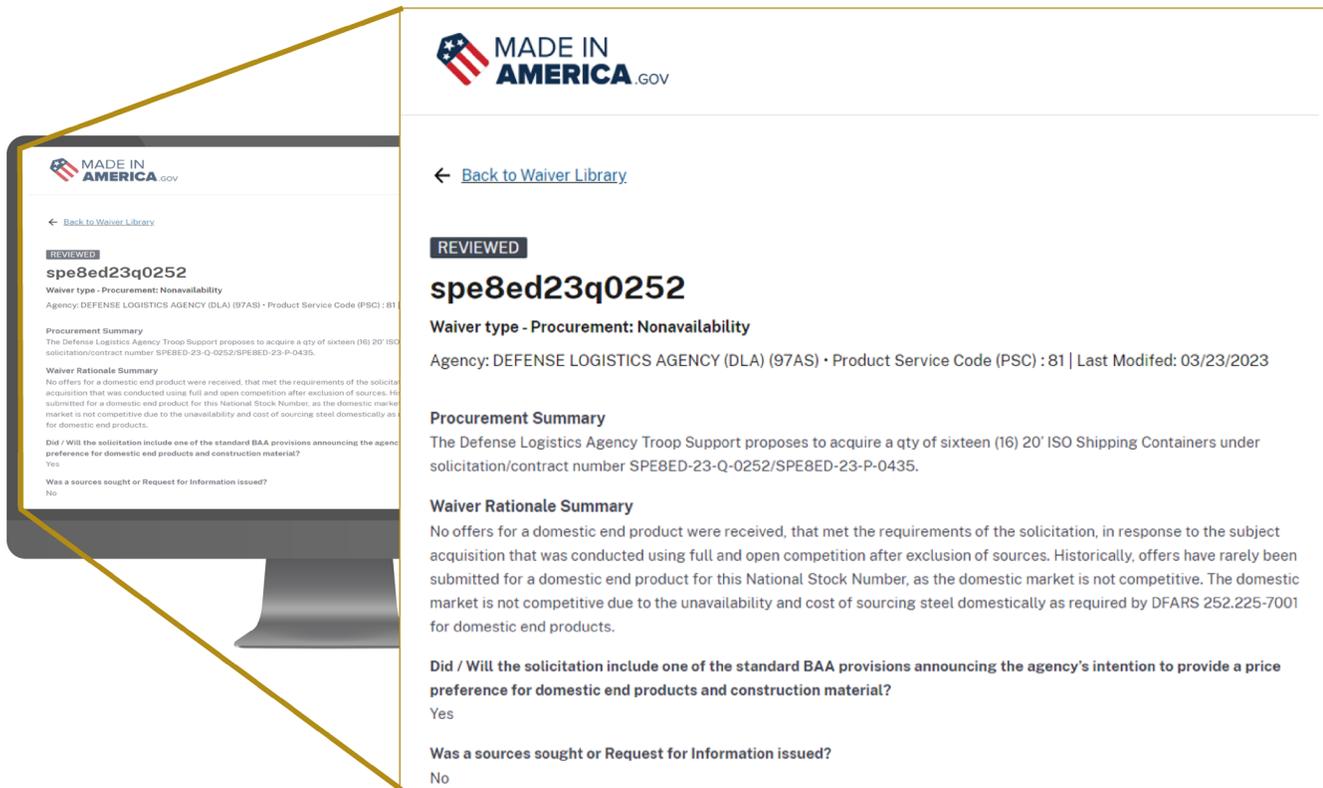
- **Navigating the websites.** This includes challenges finding and accessing relevant information because the websites do not provide instructions on how to search for waivers on the main website or on the 17 agency links. In addition, one industry association representative was unsure why some agencies have working web links and others do not.
- **Identifying relevant waivers.** This includes challenges using the search function on the website to easily identify relevant waivers. One representative stated that the search function requires overly specific terminology and that the waivers should be written in general language so users can identify them more easily. For example, one industry representative searched for ball bearings and the website generated multiple unrelated waiver results.<sup>21</sup> The representative stated that users would have to scroll through numerous waivers to identify those that are relevant, as most users are not familiar with the terms agencies are using for the waivers.

We also observed that at least one agency did not always use descriptive names for its waivers. Specifically, the Defense Logistics Agency used a series of letters and numbers for the title of its shipping container waivers, making it difficult for users to identify waivers for this specific item. Figure 2 is an example of a waiver for shipping containers.

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<sup>21</sup>Ball bearings are composed of rolling elements maintaining separation between the inner and outer rings of a bearing. Ball bearings allow for smooth, high-speed motion and reduced friction.

Figure 2: Defense Logistics Agency Waiver for Shipping Containers



Source: madeinamerica.gov; leMBERGvector/stock.adobe.com (icon). | GAO-24-106166

- **Obtaining pertinent waiver information.** This includes challenges in obtaining information such as detailed product descriptions that could help industry users determine if they could manufacture a certain product. Table 4 provides two examples of user comments that GSA received, but GSA officials stated that addressing these comments may require agencies to collect additional information through the waiver reporting process.

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**Table 4: Website User Comments Requesting More Waiver Details on madeinamerica.gov**

User Comment 1:	“For certain waivers it would be beneficial for suppliers to know the details of the program. We are a textile mill... and in order for us to explore [the option to meet agency needs] we need details on the fabric, etc.”
User Comment 2:	“The waiver doesn’t require the vendor, make and model of the instruments. Some waivers have this information, some don’t. Please require the seller source, manufacturer, make and model, so the specific specifications can be determined.”

Source: General Services Administration comments received through madeinamerica.gov. | GAO-24-106166

Industry representatives we met with also stated that the waivers do not provide enough detail to help manufacturers and vendors determine whether they could meet agency needs as a supplier.

- **Determining the results of public comment periods.** This includes challenges in determining how OMB and agencies are using public comments received on waivers. One industry association representative told us that they provided comments on waivers but did not receive a response from OMB or the agency confirming that they received the comments and if or how the comments were handled.

GSA officials told us that GSA has taken some actions to improve the website. For example, officials stated that GSA improved the search function of the website in November 2022, to include the ability to search keywords, such as title and product types. The waivers can be filtered by type, status, recently submitted, and alphabetically. GSA also enabled a data export capability that allows users to publicly download the data and sort it as they choose. GSA officials stated that the website’s search engine is reliant upon the data agencies input on the waiver forms and if those data are inconsistent, it may make for a more difficult search experience. GSA officials also acknowledged that more could be done to improve industry users’ ability to find relevant information on the website.

The President’s December 2021 Executive Order 14058, “Transforming Federal Customer Experience and Service Delivery to Rebuild Trust in Government,” states that digital services, which would include the madeinamerica.gov website, should employ customer research, user testing, and human centered design.<sup>22</sup> GSA officials said that they would typically support the website product owner, in this case OMB, to complete these types of activities, at least a year before establishing the website to better understand user needs and incorporate changes. However, the officials stated that their focus to provide waiver forms on

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<sup>22</sup>Exec. Order No. 14058, 86 Fed. Reg. 239 (Dec. 13, 2021).

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the website as soon as possible precluded them from conducting industry user engagement. Without greater input from industry users, such as through user testing, the number of repeat industry users visiting the website may decrease and federal agencies may miss opportunities to send clear demand signals to domestic producers.

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## OMB and GSA Have Not Established an Agreement on Future Website Development Efforts and Lack Useful Website Metrics

OMB and GSA have not established a formal agreement that defines the extent of future website development and the resources needed by both agencies for development. Furthermore, they are currently unable to track metrics about website users that could support their future development decisions due to system limitations.

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## OMB and GSA Have Not Agreed on Future Development Plans

According to GSA officials, OMB and GSA have not agreed on what additional capabilities, if any, should be included on the website. GSA officials stated that it is nearing what it considers the completion of its website development, but OMB has identified additional capabilities it wants GSA to develop.

OMB officials stated they initially agreed with GSA to use FORM.io, an open systems platform, as the software for the website platform because it would allow GSA to get a minimal viable website stood up. According to GSA officials, GSA envisioned that the website would primarily be a repository for storing information on waivers used by federal agencies, which users could search. OMB officials, however, expected the website to be a system with backend workflow and other capabilities to support waiver processing, which the software cannot support.

According to GSA officials, GSA has spent about \$6 million since 2021 to develop the website. The officials also stated that GSA provided additional enhancements to the website at the request of OMB that were within the limits of the available technology. For example, this included giving OMB staff the ability to update the website as needed and enhancing waiver data retention capabilities. Based on the initial set of requirements, GSA officials told us that they do not believe additional development is necessary after GSA provides agencies the capability to report on their use of the final type of waiver as identified by OMB. As

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mentioned earlier, OMB has not determined when agencies will have the capability of reporting on the final type of waiver identified.

OMB officials told us, however, that they believe more development is needed to provide a better user experience and to make the approval process run more efficiently. For example, OMB officials stated that they would like for public users to receive automatic notifications of posted waivers and for agencies to be able to edit waiver reports once they are posted to the website if an error was made. OMB officials also stated that they would like for agencies to upload and store documentation they used to support individual waiver decisions on the website. This, in turn, could help OMB complete its review process more efficiently. GSA officials noted that, while federal users do receive alerts, the existing technology does not support public user alerts, nor does it allow stored documentation pertaining to the waivers.

According to a GSA official, some of the new capabilities OMB officials identified exceed the capability of the current website platform and would require the development of a more expensive system. The official further stated that GSA did not request funding in its fiscal year 2024 budget for additional development but estimated that it would cost between \$8 million and \$12 million to overhaul the existing system. Furthermore, as of June 2023, GSA officials stated that they have one federal employee assigned to the *madeinamerica.gov* website initiative. That official is responsible for coordinating with OMB on website issues and overseeing a small group of contractors who are now responsible for operating and maintaining the system. According to GSA officials, GSA would likely need to hire additional staff beyond the single person currently in place to support expanded services.

We previously identified leading practices that can be used to assess the extent to which an agency has adopted and implemented Agile methods—including clarifying roles, responsibilities, and resources for developing projects.<sup>23</sup> GSA and OMB each have responsibilities and worked together to implement *madeinamerica.gov*. As such, they act as the system developer and product owner, respectively, and have demonstrated an Agile-like approach that releases web capabilities incrementally. However, according to agency officials, there is no documented agreement that establishes the extent of future website

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<sup>23</sup>GAO, *Agile Assessment Guide: Best Practices for Agile Adoption and Implementation*, [GAO-20-590G](#) (Washington, D.C.: September 2020).

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development and resources needed for each agency. Without a formal agreement, such as a memorandum of understanding, the agencies' capabilities and expectations will continue to be misaligned, and future website development and actions to address user comments are likely to stall.

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### GSA and OMB Are Unable to Track Metrics That Could Support Future Website Development Decisions

GSA collects and analyzes some website data, but the data do not provide OMB and GSA insight on the effectiveness of the website, which could aid future website development decisions. Specifically, GSA currently tracks performance metrics relating to system availability and the length of time it takes public waiver data to upload to the [madeinamerica.gov](https://www.madeinamerica.gov) website upon submission. GSA also uses Google Analytics to track, among other things, the number of unique users that visit the [madeinamerica.gov](https://www.madeinamerica.gov) home page, the waivers page, and the federal financial assistance links page, as well as the length of time users spend on each page.<sup>24</sup> The Google Analytics data show that between November 1, 2022, and May 31, 2023, about 7,100 unique users visited the waivers page and stayed on that page for an average of 2 minutes. The number of users visiting the [madeinamerica.com](https://www.madeinamerica.com) website generally increased over this time.

However, OMB officials consider much of the Google Analytics data too high-level for its needs. For example, OMB officials stated that they cannot determine how many of the visitors were industry users versus agency personnel. According to OMB officials, this type of information would help GSA and OMB determine whether the website is reaching its intended audience.

OMB officials stated that they are in discussions with GSA to develop more granular-level data that would provide targeted information. But, according to GSA officials, the current technology platform is not able to provide more granular user data. GSA officials stated that establishing user accounts and profile information, such as industry type, could be collected to help in determining user types as well as the ability to conduct surveys to specific users. However, this improvement is not possible within the current technology platform.

GSA's [Digital.gov Checklist of Requirements for Federal Websites and Digital Services](#) states that federal agencies should regularly evaluate all

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<sup>24</sup>Google Analytics is a platform that allows an organization to collect data on user behavior on a website.

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digital products, which would include websites, for performance and cost effectiveness by collecting and acting on metrics, among other things.<sup>25</sup> It also states that agencies should establish performance metrics to demonstrate mission achievement.

OMB is limited in its ability to gauge the effectiveness of the website because it has not identified performance goals and metrics that would indicate whether the website is reaching its intended audience or effective in bringing increased transparency to waivers to send demand signals to domestic producers. According to OMB officials, effectiveness metrics are challenging to develop at this time given the relative newness of the website and the lack of system capabilities to generate reports and metrics. OMB officials told us that they believe some of their actions demonstrate that the website is effective in terms of being transparent about federal agencies' use of waivers. For example, OMB officials stated that OMB reviews all submitted waivers to ensure they are consistent with the law and waivers are reported on the website. OMB officials also said that they have asked agencies to track success stories.

Developing performance goals and metrics would help OMB and GSA officials determine whether the website is effective in meeting its intended purpose. According to GSA officials, OMB and GSA should collaborate to align on the mission of the [madeinamerica.gov](http://madeinamerica.gov) website and jointly develop website metrics. Without these goals and metrics, OMB and GSA officials do not have useful information to support future website development decisions.

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## Conclusions

The [madeinamerica.gov](http://madeinamerica.gov) website serves as a key mechanism in the government's efforts to make waivers more transparent to the public and domestic suppliers who may be able to meet agency needs. GSA, in coordination with OMB, has taken a number of positive steps to develop the [madeinamerica.gov](http://madeinamerica.gov) website. However, more work remains to meet statutory requirements, improve the public experience, and deliver information more effectively. Agencies could be more transparent about their use of federal financial assistance waivers by following OMB guidance to include active links to their website on [madeinamerica.gov](http://madeinamerica.gov) and cross-posting that same information on [madeinamerica.gov](http://madeinamerica.gov). The website content could be improved by OMB developing procedures to

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<sup>25</sup>Digital.gov provides guidance on building better digital services in government. Digital.gov's checklist includes performance measurement and reporting guidance related to the purpose of assessing agency performance and improvement in the Government Performance and Results Modernization Act of 2010. Pub. L. No. 111-352 (2011).

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correct waiver reporting errors and issuing guidance to agencies on how to report the results of their routine audits to determine data errors and domestic preference law violations for procurement contracts. And the website design could be improved if GSA conducted user testing with industry.

GSA and OMB officials also need an agreement to guide decisions regarding future improvements to the website. GSA and OMB would benefit from establishing a formal agreement, such as a memorandum of understanding that delineates the extent of future website development and resources needed for any additional development. Further, OMB has not assessed the website's effectiveness by setting goals and tracking metrics, such as determining the extent to which it is reaching its intended audience. Without these actions, GSA's and OMB's views on the extent of website development are likely to continue to be misaligned, future website development could stall, and the website may not address user needs.

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## Recommendations for Executive Action

We are making a total of nine recommendations, including seven to OMB and two to GSA. Specifically:

The Director of OMB should ensure that all covered federal agencies have an active link on the [madeinamerica.gov](http://madeinamerica.gov) website that directs users to their federal financial assistance waivers. (Recommendation 1)

The Director of OMB should establish an updated date for federal agencies to cross-post all their federal financial assistance waivers to the [madeinamerica.gov](http://madeinamerica.gov) website. (Recommendation 2)

The Director of OMB should establish a date for providing federal agencies the capability to report unreasonable cost waivers for procurements. (Recommendation 3)

The Director of OMB should develop procedures for agencies to correct domestic preference waiver reporting errors, including deleting duplicate waiver records and adding waivers where agencies did not first obtain OMB approval. (Recommendation 4)

The Director of OMB should provide guidance to federal agencies on reporting the results of routine audits to determine data errors and

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domestic preference law violations for procurement contracts on the madeinamerica.gov website. (Recommendation 5)

The Administrator of GSA should conduct user testing with industry to obtain input on how, if at all, it could improve website functionality. (Recommendation 6)

The Administrator of GSA should develop a formal agreement, such as a memorandum of understanding, with the Director of OMB to document the extent that further website development is necessary, and the resources needed for future development efforts. (Recommendation 7)

The Director of OMB should develop a formal agreement, such as a memorandum of understanding, with the Administrator of the General Services Administration to document the extent to which further website development is necessary, and the resources needed for future development efforts. (Recommendation 8)

The Director of OMB should identify goals and metrics to gauge the effectiveness of the madeinamerica.gov website. (Recommendation 9)

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## Agency Comments

We provided a draft of this report to the Administrator of GSA, the Director of OMB; and the Secretaries of Commerce, Defense, Health and Human Services, the Interior, and Veterans Affairs for review and comment. GSA, OMB, the Interior and Veterans Affairs provided technical comments that we incorporated as appropriate.

In its comments, GSA concurred with both recommendations we made to that agency—conducting user testing and developing an agreement with OMB on future website development. GSA stated that conducting user testing will require close collaboration with MIAO as the product owner for the initiative. GSA’s letter is reprinted in appendix II.

In an email response, OMB staff provided substantive comments on four of the seven recommendations we made to that agency. As detailed below, OMB noted that it had recently taken action that would address our recommendation to cross-post financial assistance waivers, but generally disagreed with three other recommendations.

- For recommendation 2 on providing an updated date for agencies to cross-post financial assistance waivers, OMB said that it issued

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Memorandum M-24-02 on October 25, 2023, that includes guidance to agencies on this issue. We reviewed the contents of Memorandum M-24-02, which was issued while the agency was reviewing a draft of this report. Although it did not provide a specific date for agencies to cross-post their waivers, we believe that the action OMB took is consistent with our recommendation. As such, we consider this recommendation as implemented by OMB.

- For recommendation 4, OMB said that it has policies and procedures in place to correct Buy American waiver reporting errors, including removing duplicate waiver records. Further, it stated that little value is gained from conducting waiver review after the waiver becomes effective, which would have been the case for the 15 Defense Logistics Agency procurement waivers GAO identified. As a result, OMB asked us to remove this recommendation. However, OMB has not provided us with its internal written policies and procedures to correct reporting errors. In addition, to clarify our position, we are not questioning whether OMB should review waivers after they become effective. Instead, we continue to believe that the website should include complete and accurate waiver information for transparency purposes. For example, in November 2023 OMB officials told us that it has no plans to include the 15 Defense Logistics Agency waivers on the website. As such, we believe this recommendation is still relevant.
- For recommendation 5, OMB stated that MIAO is not obligated by statute to provide guidance to agencies on conducting routine audits. As audit information becomes available from federal agencies awarding contracts, OMB officials noted they would consider including the results of such audits on the website as appropriate to comply with the statute. To clarify, our recommendation was not for OMB to provide guidance to agencies on how to conduct audits, but instead to provide guidance on how to post these results to [madeinamerica.gov](https://www.madeinamerica.gov), per statute. We continue to believe this recommendation is relevant. As stated in the report, no agencies are reporting the results of audits on the website and some agency officials specifically stated that they are awaiting OMB guidance on how to comply with the statute.
- For recommendation 9, OMB stated that it does not believe it should develop performance measures to assess website effectiveness. Instead, OMB believes GSA should develop and track these metrics

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consistent with OMB Memorandum M-23-22.<sup>26</sup> We examined the memorandum and found that it contained guidance for agencies on how to design and deliver websites and digital services to the public. Specifically, agencies are encouraged to collect common customer metrics, measures, and outcomes for websites and digital services (or about the underlying service provided) as well as for non-digital experiences (e.g., an office visit, a phone call to a contact center). However, the memorandum does not provide guidance to agencies on developing overarching goals and metrics to gauge website effectiveness.

As we stated in the report, GSA is already collecting and sharing information about use of the website to OMB. We believe this is consistent with GSA's role in maintaining the website and the guidance. We continue to believe that OMB is in the best position to identify overarching goals and metrics that gauge how well the website is meeting its intended purpose. MIAO officials told us that OMB determines what the website should look like and how it should function. As stated in the report, this includes determining whether the website is reaching its intended audience and is effective in bringing increased transparency to waivers to send a demand signal to domestic producers. We recognize that OMB may need GSA's assistance in collecting some data and believe that this could be a topic the two agencies could discuss as they develop a formal agreement on future website development efforts. As such, we believe this recommendation is still relevant.

OMB had no comments on three recommendations related to establishing federal agency links on the website, establishing a date for providing agencies the capability to report on unreasonable cost waivers for procurement, and developing an agreement with GSA on future website development. Therefore, it is unclear whether OMB intends to implement these recommendations. We believe that these three recommendations are still warranted and emphasize the importance of OMB developing a formal agreement with GSA for future website development so that future actions go smoothly. As noted above, GSA concurred with a similar recommendation to develop an agreement with OMB.

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We are sending copies of this report to the appropriate congressional committees, the Director of the Office of Management and Budget, the

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<sup>26</sup>Office of Management and Budget, *Delivering a Digital First Public Experience*, Memorandum M-23-22 (Washington, D.C.: Sept. 22, 2023).

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Administrator of the General Services Administration, and other interested parties. In addition, the report is available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-4841 or [russellw@gao.gov](mailto:russellw@gao.gov). Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix III.

A handwritten signature in black ink that reads "W. William Russell". The signature is written in a cursive, flowing style with a large initial "W" and a long, sweeping underline.

W. William Russell  
Director, Contracting and National Security Acquisitions

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*List of Committees*

The Honorable Maria Cantwell  
Chair  
The Honorable Ted Cruz  
Ranking Member  
Committee on Commerce, Science, and Transportation  
United States Senate

The Honorable Gary C. Peters  
Chairman  
The Honorable Rand Paul, M.D.  
Ranking Member  
Committee on Homeland Security and Governmental Affairs  
United States Senate

The Honorable Cathy McMorris Rodgers  
Chair  
The Honorable Frank Pallone, Jr.  
Ranking Member  
Committee on Energy and Commerce  
House of Representatives

The Honorable James Comer  
Chairman  
The Honorable Jamie B. Raskin  
Ranking Member  
Committee on Oversight and Accountability  
House of Representatives

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# Appendix I: Objectives, Scope, and Methodology

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The Infrastructure Investment and Jobs Act included a provision that directed the General Services Administration (GSA) to establish a publicly available website—BuyAmerican.gov—to collect and display information about requested waivers to what the statute referred to as “Buy American laws,” which we refer to as domestic preference laws. According to GSA officials, the Office of Management and Budget (OMB) subsequently directed GSA to stand up the site as madeinamerica.gov to align with the name of the Made in America Office (MIAO) that was established by Executive Order 14005. As such, we refer to the website as madeinamerica.gov throughout this report.

The statute also directed GAO to report on improvements to the collection and reporting of information regarding waivers to domestic preference laws. This report describes the extent to which (1) GSA has implemented requirements to establish the madeinamerica.gov website and (2) GSA and OMB are planning for future website development.

To assess the extent to which GSA has implemented requirements to establish the madeinamerica.gov website, we analyzed the contents of the madeinamerica.gov website and federal agency links, from August 2022 to June 2023 to determine if the information required by the Infrastructure Investment and Jobs Act and OMB guidance was included. We contacted nine agencies that did not have an active web link for federal financial assistance waivers on the madeinamerica.gov website as of June 2023 to determine their plans for adding a link, as required by OMB. The agencies included the Agency for International Development, General Services Administration, National Aeronautics and Space Administration, Social Security Administration, and Office of Personnel Management, as well as the Departments of Defense, Health and Human Services, Justice, and State.

We analyzed waiver information from the madeinamerica.gov website and the agency links to determine if waiver information was being reported in accordance with the Infrastructure Investment and Jobs Act requirements and OMB guidance. For our purposes, we found the data to be generally reliable. To determine data reliability, we reviewed the data for errors and inconsistencies. We also interviewed officials from GSA and OMB, as well as five agencies that reported nearly 85 percent of the waivers included on the website as of January 2023. The agencies included—the Departments of Commerce, Defense, Health and Human Services, the Interior, and Veterans Affairs. Through our analysis and interviews, we identified one duplicate waiver record and 15 waivers that

were not reported on the website. We describe the reporting errors in our findings.

We analyzed over 70 comments that users provided to GSA through a link on the website to determine the type of improvements requested. We discussed with GSA what changes, if any, it had already made to the website based on these comments or are planned. We also interviewed representatives from four U.S. industry associations to solicit their opinions on the website design. Three associations represent companies of diverse sizes, including small businesses. The associations included: (1) the National Electrical Manufacturers Association; (2) the National Defense Industrial Association; and (3) the Chamber of Commerce. Representatives from the fourth industry association, the Alliance for American Manufacturing, stated that most companies they represent are large organizations working in the steel, glass, and aluminum industries and focus on policy issues. We identified the industry associations and manufacturers based on internet and database searches, such as Leadership Connect, and suggestions from industry associations that we interviewed.<sup>1</sup> We also interviewed GSA and OMB officials to discuss some of the concerns raised by industry representatives.

To help inform our questions to industry association representatives, we reviewed relevant documents that establish requirements and guidance that federal agencies are supposed to follow when developing websites. GSA summarized the contents of these documents and grouped them into 25 categories of guidelines on its Digital.gov website. For our purposes, we concentrated our questions on four categories that were relevant to the activities of website development. Table 5 describes the categories that we used in our review and examples of topics we discussed.

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<sup>1</sup>Leadership Connect is a data service that allows users to screen for organizations, companies, and people across the public, private, and not for profit sectors.

**Table 5: Selected Federal Website Development Guidelines That GAO Discussed with Industry Association Representatives**

Category	Summary description	Examples of topics GAO discussed
Open government, data, and content	Publish information in ways that make it easy to find, access, share, distribute, and repurpose.	Ease in navigating the website
Customer experience	Understand the needs of your customers, collect and address customer feedback, and use data and feedback to continuously improve your programs.	Experience of submitting feedback to the General Services Administration on the website General Services Administration response to feedback
Information quality	Create content that is accurate, relevant, easy-to-use, and conveyed in plain language. Maximize the quality, objectivity, utility, and integrity of information and services provided to the public and make information and services available on a timely and equitable basis.	Whether waiver information provided on the website is enough to help businesses make an informed decision about producing a product domestically
Search	Ensure the website includes a search function, which follows industry standard best practices. Write content in plain language, using the words of the customers, so they can easily find what they need when searching the web or the website.	Ease in finding waivers of interest

Source: Digital.gov. | GAO-24-106166

We confirmed some challenges that representatives from the four industry associations identified through our own analysis of the website content.

To assess the extent to which OMB and GSA are planning for future website development and collecting metrics, we conducted interviews with OMB and GSA officials to solicit their views on what, if any, additional website development is needed. We also discussed OMB’s and GSA’s roles and responsibilities, as well as resources needed for future website development, including whether they have a memorandum of understanding. We analyzed website metrics that GSA and OMB use and discussed the metrics that track website effectiveness.

We conducted this performance audit from August 2022 to December 2023 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

# Appendix II: General Services Administration Comments

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The Administrator

November 15, 2023

The Honorable Gene L. Dodaro  
Comptroller General of the  
United States  
U.S. Government Accountability Office  
Washington, DC 20548

Dear Comptroller General Dodaro:

The U.S. General Services Administration (GSA) appreciates the opportunity to review and comment on the draft report, "*Opportunities Exist to Improve the Reporting of Waivers to Buy American Laws*" (GAO-24-106166). GSA is proud to support Executive Order 14005, "Ensuring the Future is Made in America by All of America's Workers" and the Infrastructure Investment and Jobs Act through the completion – under the direction of the Made in America Office (MIAO) – of the [MadeinAmerica.gov](https://www.madeinamerica.gov) site.

GSA concurs with the recommendations and offers proposed technical comments on the draft report.

**Recommendation 6: The Administrator of GSA should conduct user testing with industry to obtain feedback on how, if at all, it could improve website functionality.**

GSA concurs with this recommendation, while noting that conducting user testing will require close collaboration with MIAO as the business owner for this initiative.

**Recommendation 7: The Administrator of GSA should develop a formal agreement, such as a Memorandum of Understanding, with the Director of MIAO to document the extent that further website development is necessary, and the resources needed for future development efforts.**

GSA concurs with this recommendation.

U.S. General Services Administration  
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**Appendix II: General Services Administration  
Comments**

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We appreciate GAO's review of this important initiative. If you have any additional questions or concerns, please do not hesitate to contact me, or Gianelle E. Rivera, Associate Administrator, Office of Congressional and Intergovernmental Affairs, at (202) 501-0563.

Sincerely,



Robin Carnahan  
Administrator

cc: David C. Trimble, GAO, Managing Director, Physical Infrastructure

Enclosure: Technical Comments

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# Appendix III: GAO Contact and Staff Acknowledgments

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## GAO Contact

W. William Russell, (202) 512-4841 or [russellw@gao.gov](mailto:russellw@gao.gov)

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## Staff Acknowledgments

In addition to the contact named above, Cheryl Andrew, Assistant Director; Sameena Ismailjee, Analyst-in-Charge; Adam Cowles; Lori Fields; Lorraine Ettaro; Suellen Foth; Kelsey Kestenbaum; Edward J. SanFilippo; Jennifer Stavros-Turner; Anne Louise Taylor; Matt Whalen; and Robin Wilson made key contributions to this report.

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