



Build America, Buy America (BABA)

Requirements for State Revolving Fund (SRF) Projects



The Build America, Buy America Act, enacted as part of the Infrastructure Investment and Jobs Act on November 15, 2021 requires that products used in federally funded infrastructure projects must be sourced domestically. This requirement helps build a resilient domestic supply chain and increases the manufacturing base for these products in the United States.

Roles and Responsibilities



LOAN RECIPIENT

Incorporate BABA requirements into all contracts (see “front-end” templates). Obtain manufacturer certifications and maintain documents in project files. Submit De minimis Use Tracking Form with each disbursement request and “project” BABA certification at substantial completion.



CONTRACTOR

Procure U.S. made products, obtain certifications from manufacturers, and maintain a list of items covered by the De minimis Use Waiver (see reverse page for more information). Submit the Contractor’s & Engineer’s Build America, Buy America certification form with each payment application.



MANUFACTURER

Provide product certifications to loan recipient.



STATE OF NEW HAMPSHIRE

Conduct inspections and examine documentation for incorporated products. Reviews the De minimis tracking form.



ENGINEER/CONSULTANT

Assists loan recipient to comply with requirements by ensuring BABA is incorporated into all contracts and all prospective bidders are aware of BABA components incorporated into design. When approving shop drawings and materials, verify BABA compliance and assist with collecting certifications.

Manufacturers Certification Requirements

The Contractor, through its subcontractors, suppliers, and manufacturers, shall provide to the Owner written certification that all manufactured iron and steel, and construction materials provided for the project comply with the BABA requirements of the SRF programs.

Manufacturer’s certification letters *must include* the following:

- Manufacturer name.
- SRF construction project name and location.
- A list of specific product(s) delivered to the project site.
- Category of item(s); i.e., iron and steel, construction material, or manufactured product.
- A statement that the product is in compliance with the Build America, Buy America (BABA) requirement as mandated by the Infrastructure Investment and Jobs Act (IIJA – Public Law No. 117-58).
- The location of the foundry/mill/factory where the product was manufactured (City and State).
- A signature by a manufacturer’s responsible party.

BE PROACTIVE! IDENTIFY BABA COMPONENTS UPFRONT AND OBTAIN CERTIFICATIONS EARLY IN THE PROCESS.

For additional information regarding the BABA provision and requirements, visit:

<https://www.epa.gov/cwsrf/build-america-buy-america-baba> or
<https://www.des.nh.gov/business-and-community/loans-and-grants/state-revolving-loan-fund>

Products and Materials Subject to BABA

IRON AND STEEL PRODUCTS

BABA Iron & Steel applies to construction materials if their material cost is made up of more than 50% iron and/or steel. Products less than 50% iron/steel will likely be considered construction material and still need to comply with BABA.

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| <ul style="list-style-type: none"> • Railings • Lined/unlined pipes or fittings • Manhole covers • Municipal castings | <ul style="list-style-type: none"> • Hydrants • Pipes, clamps & restraints • Valves; Structural Steel | <ul style="list-style-type: none"> • Reinforced precast concrete • Tanks; Concrete reinforcing bars (rebar) • Angles | <ul style="list-style-type: none"> • Tubing • Joists • Framing • Welding rods • Fasteners | <ul style="list-style-type: none"> • Dome Structures • Roofing • Fencing & fence tubing • Ductwork • And More! |
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CONSTRUCTION MATERIALS

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| <ul style="list-style-type: none"> • Non-ferrous metals • Plastic and polymer-based products (including pvc, composite building materials, and polymers used in fiber optic cables) • Lumber • Drywall | <ul style="list-style-type: none"> • Glass (including optic glass) • Engineered wood • And More! | <p>EXEMPT</p> <ul style="list-style-type: none"> • Cement and cementitious materials • Aggregates such as stone | <ul style="list-style-type: none"> • Sand, gravel, or aggregate binding agents or additives • Asphalt |
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MANUFACTURED PRODUCTS

Applies to products where the cost of components of the product that are mined, produced, or manufactured in the US is greater than 55% of the total cost of all components.

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| <p>Mechanical and electrical components, equipment, and systems such as:</p> <ul style="list-style-type: none"> • Sensors | <ul style="list-style-type: none"> • Pumps • Motors • Gear Reducers • Drives (i.e., VFDs) | <ul style="list-style-type: none"> • Gates • Actuators • Meters • Compressors | <ul style="list-style-type: none"> • Controls and switches • Blowers/aeration equipment • Mixers | <ul style="list-style-type: none"> • Motorized screens • Supervisory control and data acquisition • And More! |
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Review EPA's [BABA Implementation Procedures](#) and [Supplemental FAQs](#) for additional information and a more detailed list of products and materials subject to BABA.

Waivers

BABA requirements apply unless a waiver is granted by EPA. EPA may grant product and project-specific waivers from the BABA requirements if one or more of the following criteria applies:

- (1) Applying BABA requirements would be inconsistent with the public interest;
- (2) BABA compliant materials are not produced in the US in sufficient and reasonably available quantities or of a satisfactory quality; or
- (3) BABA compliant materials produced in the US will increase cost of project by more than 25%.

Currently approved or proposed waivers and the requirements are available on [EPA's website](#).

The [BABA De minimis waiver](#) applies to miscellaneous non-domestically made, low-cost components tracked in the [De Minimis Tracking Report](#). The cumulative costs for these components may not exceed 5% of the total project cost.

Questions and General Inquiries

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