

BUILD AMERICA, BUY AMERICA ACT

The Build America, Buy America Act (BABA) aims to boost American businesses and create jobs by mandating that all iron, steel, manufactured products, and construction materials used in federal construction projects are made in the USA.

(2 CFR 184.1)

The Build America, Buy America (BABA) requirement only applies to materials and supplies that actually become part of an infrastructure project, or get used up building it.

BABA Certified Materials and Supplies means **more than 55%** of its parts (based on their cost) are made in the U.S., and the final product also has to be manufactured in the U.S. This doesn't mean all the parts have to be made in the U.S.



How to determine if the product component is more than 55% of the cost components?

1. Determine which components of the material manufactured in the United States.
2. Determine the cost of those components manufactured in the United States.
3. Determine the cost of all components of the material.
4. Use the formula below to calculate the Domestic Percentage.

$$\text{Domestic Percentage} = \frac{\text{Cost of Domestic Components}}{\text{Cost of All Components}} \times 100$$

Things to know about Build America, Buy America Act:

Material that are subject to BABA:

The BABA Requirement applies to **three** separate product categories purchased under federal grant awards for infrastructure projects:

- iron or steel products;
 - All iron and steel items used in covered projects **must** be produced in the United States. This means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
- manufactured products; and
- construction materials.

Material that are exempt from BABA:

Any and all the temporary material like: the tools, the equipment, and even things like scaffolding that come to the site for the project and then go away when it's done.



De Minimis Costs Waiver

The De Minimis Costs Waiver applies to projects where the total value of foreign products used in the project is **no more** than the lesser of \$1,000,000 or **5%** of the cost of all the products in your project that fall under domestic sourcing rules.

Simply put, it is acceptable to use foreign materials and supplies, so long as their cost represents no more than 5% of the total material cost.

$$\text{De Minimis Waiver} = \frac{\text{Total value of foreign products}}{\text{Total material cost for the project}} \times 100$$



Project-Specific BABA Waiver

If using domestic materials would boost your project costs by **over 25%**, or if the materials just aren't available, a BABA waiver can be requested from the DOE. To start this process, get in touch with your OED program Specialist.

Things to ask your vendor:

1. Are the material we inquired 55% made in the U.S.?
2. What is the cost difference between domestic vs. foreign of this specific equipment/material?
3. Are there any differences in quality between domestic vs. foreign for this equipment/material?
4. What is the lead time?
5. Do you have BABA Certification for this material?



Resources:

- DOE BABA Guidance: [here](#)
- DOE BABA Waiver Requests: [here](#)
- USDA BABA Compliance Certification Checklist: [here](#)
- De Minimis Waiver: [here](#)
- USmart BABA Deep Dive: [here](#)
- Utah GRID BABA Bidding Language: [here](#)
- OED Program Specialist: kprasurtwong@utah.gov
- USmart TA: chris.abbott@utah.edu