



# Build America, Buy America Fact Sheet

October 2023

The Build America, Buy America Act (BABA) requires **iron/steel**, **manufactured products**, and **construction materials** used for infrastructure projects funded with federal financial assistance to be produced in part or wholly in the United States.<sup>1</sup> **BABA** preferences will be incorporated into regulations governing all federal assistance programs, meaning it will apply to all federal funding for infrastructure projects.<sup>2</sup>

**Materials and Compliance<sup>2</sup>** Articles, materials, or supplies must be classified in **only one of the categories** listed below based on the **status at the time it is brought to the work site** for incorporation into an infrastructure project.<sup>2</sup>



## Iron and Steel

All manufacturing processes, from the initial melting stage through the application of coatings for articles, materials, or supplies where the **cost** of iron and steel components **exceed 50 percent** of the total cost of all components, must occur in the United States.

**Note:** Components that are not a majority iron or steel by composition can still be classified in this category on the basis of "cost of components."



## Construction Materials

All manufacturing processes for articles, materials, or supplies that consist of only one of the following must occur in the United States\*:

- Non-ferrous Metals
- Plastic and Polymer-based Products
- Glass
- Fiber Optic Cable
- Optical Fiber
- Lumber
- Engineered Wood
- Drywall

**Note:** See Guidance for exact requirements of each category



## Manufactured Products

Manufactured Products are defined as supplies that have been:

- Processed into a specific form and shape; or
- Combined with other materials to create a product with different properties.

Additionally, Manufactured Products:

- Must be manufactured in the United States; and
- The cost of the components that are mined, produced, or manufactured in the United States **must be greater than 55%** of the total cost.



## Concrete and Aggregate Materials

The Section 70917 (c) materials listed below are not covered by BABA **unless** they are components of a manufactured product. Section 70917(c) materials include:

- Cement and cementitious materials
- Aggregates such as stone, sand, or gravel
- Aggregate binding agents or additives

**Note:** Wet concrete and hot asphalt mix fall in this category and do not fall under the requirements of BABA.

## Waivers<sup>2</sup>

The pre-publication guidance recognizes two types of waivers:

### Product and Project Specific Type Waivers:

Apply to a specific material or component

### General Applicability Type Waivers:

Apply generally across multiple awards.

Funding recipients must submit one of the three justifications in their waiver application:

### 1. Public Interest Waiver

### 2. Nonavailability Waiver

### 3. Unreasonable Cost Waiver

The steps to request a waiver are as follows:

1. Submission by Funding Recipient

2. Federal Agency Review

3. Public Review and Comment

4. Made in America Office (MIAO) Review

5. Waiver Decision Finalized

*This is a Department of Finance and Administration (DFA) document produced in coordination with Deloitte. This document contains general information only. Deloitte and/or DFA are not, by means of this document, rendering legal advice or services. Deloitte and/or DFA make no assurances regarding the outcome of future regulatory reviews or audits and are not liable for any losses sustained due to noncompliance. The funding recipient is responsible for its decisions and actions taken to comply with the requirements of the regulation described herein. Before making financial decisions, it is advised the State Agency consult with a qualified professional. This document is not intended for use by subrecipients or other third parties.*

Sources: (1) [Build America, Buy America Act](#); (2) [Pre-Publication Guidance](#); (3) [M-22-11 Implementation Guidance](#); (4) [OMB Initial Guidance](#)