



Build America Buy America Act (BABAA)

Job Aid

Resources

1. [Build America, Buy America Act \(BABAA\)](#)
2. [BABAA Waiver Request Form](#)
3. [Build America Buy America Waivers Website \(ed.gov\)](#)
4. [List of the Department of Education Infrastructure](#)
5. [FAQs on the Build America, Buy America Act](#)
6. [2 CFR § 200.334](#)
7. [Build America, Buy America Act U.S. Department of Education Domestic Sourcing Requirements and Grant Waiver Request Procedure](#)
8. [Waivers | Made in America – MIAO Waivers Site](#)
9. [Home | Made in America – GSA Site](#)
10. [Made In America Office Resources – OMB Site](#)
11. [M-22-11 Initial Implementation Guidance of Buy America Preference in Federal Financial Assistance Programs for Infrastructure – OMB BABAA Guidance](#)

Glossary of Terms

- **Broadband infrastructure:** Software is not considered a manufactured product. However, components of a broadband infrastructure backbone, such as hardware, fiberoptics and cabling, would fall under the BABAA requirements.
- **Build America, Buy America Act (BABAA):** Focuses on maximizing the federal government's use of services, goods, products, and materials produced and offered in the United States; creating demand for domestically produced goods; helping to sustain and grow domestic manufacturing and the millions of jobs it supports throughout product supply chains.
- **Construction materials:** Construction materials are articles, materials, or supplies that, for example, consist of any of the following: Non-ferrous metals, such as aluminum, copper, and lead used in a project; Plastic and polymer-based products, including polyvinylchloride, composite building; materials, and polymers used in fiber optic cables; Prefabricated windows brought to a site for incorporation into a building; Glass, including optic glass; Lumber; Drywall. Construction materials do not include any item that is a "manufactured product"; is primarily iron or steel; or includes cement and cementitious materials, aggregates such as stone, sand or gravel, or aggregate binding agents or additives. See OMB Guidance M22-11.
- **Grant Award Notification (GAN):** The official document signed by an obligator stating the amount and conditions of an award for a formula grant.
- **Grantee:** The legal entity to which ED awards a grant and that is accountable to the Federal government for the use of the funds provided. The grantee is the entire legal entity even if only a particular component of the entity is designated to implement or administer the grant in the GAN.



- **Monitoring:** The process followed by a program office to assess, among other things: 1) how well a grant is being implemented and achieving program objectives; 2) the degree to which the project is meeting established performance standards; and 3) whether the grantee is complying with statutory requirements, program, and applicable EDGAR regulations (including fiscal requirements), 2 CFR 200, and policies.
- **Nonavailability Waiver:** To be considered and reviewed by the U.S. Department of Education, a Nonavailability Waiver must demonstrate that the types of iron, steel, manufactured products, or construction materials needed for the infrastructure projects or activities are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality.
- **Public Interest Waiver:** To be considered and reviewed by the U.S. Department of Education, a Public Interest Waiver must demonstrate that applying the domestic content procurement preference would be inconsistent with the public interest.
- **Subaward:** an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a Federal award received by the pass-through entity. It does not include payments to a contractor *[for clarifying information see subrecipient and contractor determinations in 2 CFR 200.331]* or payments to an individual that is a beneficiary of a Federal program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract. This definition is established by the Office of Management and Budget in 2 CFR 200.1.
- **Subgrant:** an award of financial assistance in the form of money, or property in lieu of money, made under a grant by a grantee to an eligible subgrantee. The term includes financial assistance when provided by contractual or any other form of legal agreement but does not include procurement purchases. This definition is established by the Department of Education in EDGAR 77.1. EDGAR 77.1 establishes that “subgrant,” as defined here has the same meaning as “subaward” in 2 CFR 200.1.
- **Subgrantee:** the government or other legal entity to which a subgrant is awarded and that is accountable to the grantee for the use of the funds provided. At ED subgrantee and subrecipient are used interchangeably depending on the type of grant awarded.
- **Subrecipient:** an entity, usually but not limited to non-Federal entities, that receives a subaward from a pass-through entity to carry out part of a Federal award; but does not include an individual that is a beneficiary of such award. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency.
- **The BABAA Waiver Request Form:** The form that must be submitted by a grantee that is proposing a construction, remodeling, or broadband infrastructure project in order to seek a waiver to the BABAA domestic sourcing requirements. The BABAA Waiver Request Form may be submitted to the Department by a grantee before, during, or after it solicits bids for the project that are subject to the BABAA domestic sourcing requirements.



- **The Buy America Sourcing Requirement, or Domestic Content Procurement Preference:** Requires that for Federal financial assistance infrastructure projects: all iron and steel used in the project are produced in the United States; the manufactured products used in the project are produced in the United States; or the construction materials used in the project are produced in the United States.
- **Unique Entity Identifier (UEI):** A number used to identify a specific commercial, nonprofit, or Government entity. The Unique Entity Identifier (UEI) is used within SAM.gov as a primary key to uniquely identify an entity or part of an entity. In April of 2022, the UEI replaced the DUNS number as the primary identifier for Federal awards.
- **Unreasonable Cost Waiver:** To be considered and reviewed by the U.S. Department of Education, an Unreasonable Cost Waiver must demonstrate 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%.

Acronyms

- **ALN:** Assistance Listing Number (formerly CFDA)
- **BABAA:** Build America Buy America Act
- **ED:** The Department of Education
- **GAN:** Grant Award Notification
- **GSA:** General Services Administration
- **IIJA:** The Infrastructure Investment and Jobs Act
- **MIAO:** Made in America Office
- **NAICS:** North America Industry Classification System
- **NCC:** Non-competing continuation
- **NIA:** Notices Inviting Applications
- **OAGRM:** Office of Acquisition, Grants, and Risk Management
- **OGC:** Office of General Counsel
- **OMB:** The Office of Management and Budget
- **PSC:** Product and Service Codes
- **UEI:** The Unique Entity Identifier