

BUILD AMERICA BUY AMERICA ACT (BABAA) QUESTIONS & ANSWERS

The BABAA program was enacted as part of the Infrastructure Investment and Jobs Act, which the president signed into law in November 2021. The program applies to federal financial assistance programs for infrastructure to help produce more domestic procurement of products and materials for infrastructure projects; therefore, it has specific requirements related to the manufacturing of products in the United States. These requirements could include minimum percentages of domestic content, specifications for qualifying components, or other project-specific criteria.

HOW CAN MARINE MANUFACTURERS BENEFIT?

Federal agencies must ensure that all applicable programs comply with the incorporation of a Buy America preference in the terms and conditions of each award with an infrastructure project. Example: a nonprofit applies for a grant through the Clean Vessel Act program for more discharge boats, so the grant recipient may ask marine manufacturers for a compliance letter to ensure the boat and/or engine would be compliant with BABAA requirements.

WHAT ARE THE REQUIREMENTS FOR MANUFACTURED PRODUCTS?

Manufactured products used in the project are “produced” in the United States. This means the manufactured product was manufactured in the United States, and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product. See: [M-22-11 \(whitehouse.gov\)](#)

DO FEDERAL AGENCIES HAVE DIFFERENT REQUIREMENTS?

Different federal agencies administer BABAA programs, and each agency may have slightly different compliance criteria. Grant applicants should carefully review agency-specific guidelines.

CAN BABA REQUIREMENTS BE WAIVED?

Yes, when necessary. Agencies may waive BABAA requirements on the basis of (1) nonavailability, (2) unreasonable cost, or (3) public interest. All waivers must be in writing, published for public comment, and approved judiciously. Waivers should also be limited to specific projects or time periods, targeted to only the products necessary, and when appropriate, conditional, to maximize the use of American-made items. Recipients who have questions about waivers should contact the funding agency.

WHAT KIND OF DOCUMENTATION DO I NEED?

For each item to which BABAA applies, a manufacturer’s certification letter or other document demonstrating compliance is required. It must, at a minimum, identify the item being certified (short written description as well as part number, if applicable) and affirm that the item complies with BABA. This document must be signed by an authorized company representative.

WHAT ABOUT SUPPLY CHAIN MANAGEMENT?

Managing the supply chain is crucial for maintaining compliance. Grant recipients often need to ensure that subcontractors and suppliers also adhere to BABAA requirements. Depending on the grant program, regular reporting on compliance efforts and progress may be required. Grant recipients should be prepared to provide updates as requested by the funding agency.

OTHER RESOURCES

To ensure proper compliance with BABAA requirements, it’s recommended to consult with legal experts and/or compliance specialists. Additionally, collaboration with the relevant federal agency overseeing the grant can help manufacturers navigate the specific requirements of a project.

[Buy American Act versus Buy American Laws - Fact Sheet \(madeinamerica.gov\)](#)

[BABBA Implementation](#)



National Marine
Manufacturers Association

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