

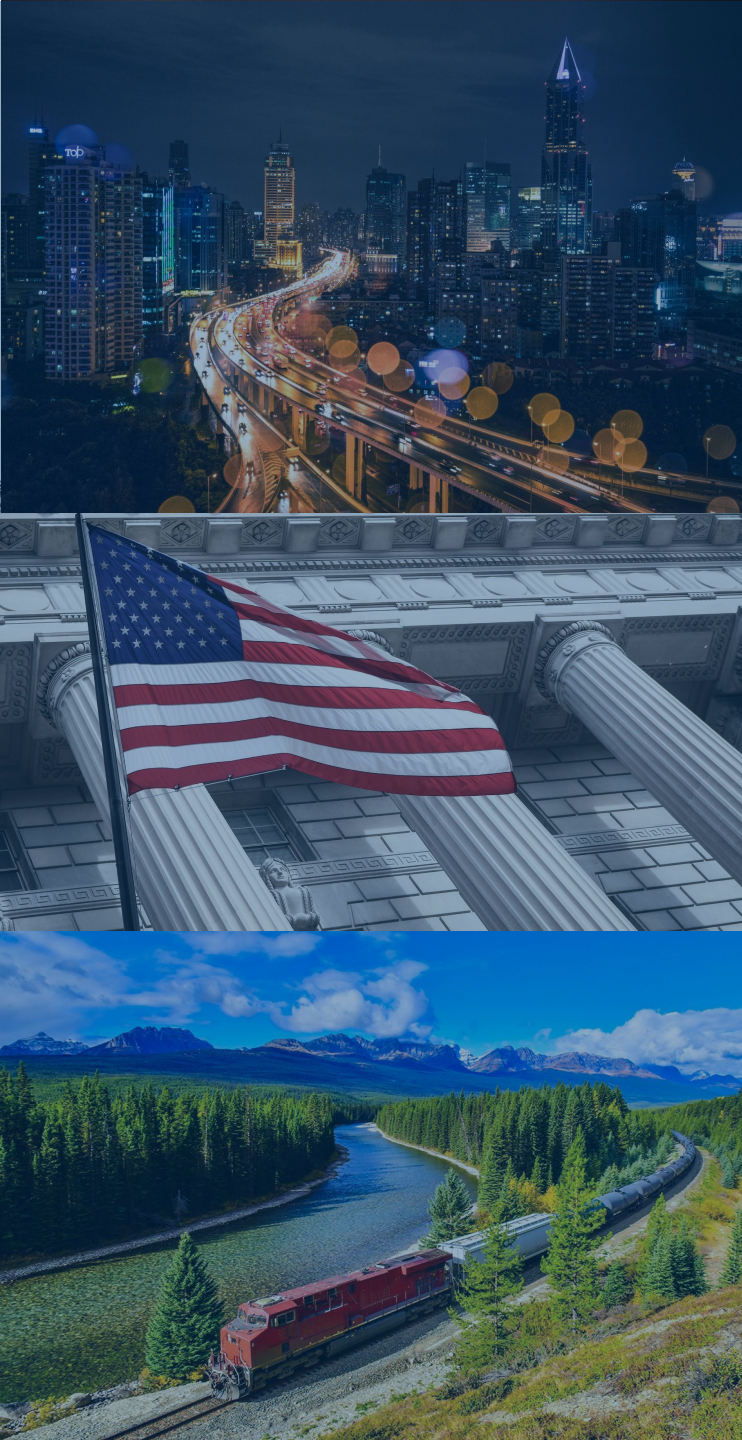
Build America, Buy America (BABA) CCG Training

BIGGER [SMARTER] FASTER

About TRC

- TRC is a leading, global consulting, engineering and construction management firm that provides environmentally focused and digitally powered solutions across our key markets.
- Our Clean Transportation Services team has secured more than \$2 billion dollars in incentives for our clients with a 90% success rate
- Our team has supported the deployment of hundreds of vehicles and infrastructures, and managed the implementations of local, state and federal grants through agencies like the EPA, Department of Energy and Department of Transportation





FAQs

Build America Buy America



What is Build America, Buy America? (Referred to as BABA and/or Buy America)

Provisions under the Infrastructure Investment and Jobs Act (IIJA) (better known as the Bipartisan Infrastructure Law) that includes the Build America, Buy America Act. The Act expands Buy America requirements across the U.S. government (all federal agencies) to include domestic preferences generally applied to certain awards made with Federal financial assistance.



Is it uniform across the government?

No, there is no uniform “Buy America” statute. Rather, there are varying statutes across agencies that require those receiving federal assistance to prefer goods, products, and materials made in the United States.



What does it do?

Requires that financial assistance programs for infrastructure utilize American-made iron, steel, construction materials, and manufactured products.

Build America Buy America



What defines an infrastructure program?

A Federal financial assistance program for infrastructure is any program under which an award may be issued for an infrastructure project, regardless of whether infrastructure is the primary purpose of the award.

The term “project” means any activity related to the construction, alteration, maintenance, or repair of infrastructure in the United States.



What is “infrastructure” under the IIJA?

The IIJA’s definition of “infrastructure” encompasses public infrastructure projects.

Infrastructure encompasses public infrastructure projects in the United States, which includes, at a minimum, the structures, facilities, equipment for roads, highways, bridges; public transportation; dams, ports, harbors, other maritime facilities; intercity passenger and freight railroads; freight and intermodal facilities; airports; water systems, electrical transmission facilities and systems; utilities; broadband infrastructure; buildings and real property; and structures, facilities, and equipment that generate, transport, and distribute energy including electric vehicle (EV) charging.



What is "Buy America Preference"?

A term used to apply to Federal awards where funds are appropriated or otherwise made available for infrastructure projects in the United States.

All Federal awards with infrastructure projects must include the Buy America Preference.

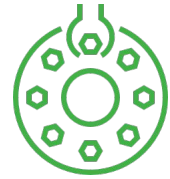
It must be included in all subawards, contracts, and purchase orders for the work performed, or products supplied under the Federal award. The terms and conditions of a Federal award flow down to subawards to subrecipients unless a particular section of the terms and conditions of the Federal award specifically indicate otherwise.

Buy America vs. Buy American

Not to be confused!

- **Buy America** are domestic content requirements that apply to certain Federal financial assistance programs.
- All Federal awards with infrastructure projects must include the Buy America Preference in the terms and conditions. This preference requires financial assistance programs for infrastructure to utilize American-made iron, steel, construction materials, and manufactured products.
- Example: Procurement of domestic products under Federal grant program funding
- **Buy American** is for direct federal procurement, i.e., what the Federal government buys for its own use.
- Requires a preference for domestic end products and construction materials procured by the Federal Government.
- Example: Procurement of electric vehicle chargers for a Federal office

How is my project infrastructure?



Infrastructure projects mean any activity related to the construction, alteration, maintenance, or repair of infrastructure in the United States **regardless of whether infrastructure is the primary purpose of the project.**

The term “infrastructure” under BABA encompasses public infrastructure projects in the United States, which includes, at a minimum, the structures, facilities, and equipment for the following example projects:

- structures, facilities, and equipment that generate, transport, and distribute energy including electric vehicle (EV) charging and solar.
- public transportation
- electrical transmission facilities and systems
- broadband infrastructure
- buildings and real property

What is required?

Buy America Preference for Federal Awardees and Sub Awardees:

50% of iron and steel by material costs must be melted and poured in the United States.

- BABA's iron and steel requirements apply to products that are “predominantly” iron and steel. Predominantly means the cost of the iron and steel exceeds 50% of the total cost of all components.
 - All manufacturing processes, from the initial melting stage through the application of coatings, must occur in the United States.
 - Any iron or steel used in a manufactured product needs to be produced in the United States

55% of manufactured products used in the project are produced in the United States.

Manufactured products must be 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% of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation.

100% of construction materials are manufactured in the United States.

All manufacturing processes for the construction material occurred in the United States.

- BABA applies to the following construction materials incorporated into infrastructure projects: Non-ferrous metals, Plastic & polymer-based products, Glass, Fiber optic cable, Optical fiber, Lumber, Drywall, and Engineered wood

How to calculate 55%

The 55% is based on costs of components and sourcing. How does an entity determine the cost of components?

- **Costs are dependent on whether components are purchased or manufactured by the manufacturer:**
 - Purchased: The acquisition cost, including transportation costs to the place of incorporation into the manufactured product (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or
 - Manufactured: All costs associated with the manufacture of the component, including transportation costs, plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the manufactured product.
- **In general, there are 4 steps in this determination:**
 1. Determine the components manufactured in the United States.
 2. Determine the cost of those components manufactured in the United States.
 3. Determine the cost of all components.
 4. Divide the cost determined in step 2 by the cost determined in step 3.

- Specific agencies provide worksheets to calculate domestic content percentage. For example: [FAA Form 5100-136, Buy American Preference - Content Percentage Worksheet](#)

Level (0, 1, 2)	Part Number	Item Description	Quantity	Unit of Measure	Price/Unit of Measure	U.S. Origin Price/Unit of Measure	U.S. Origin Cost	Non-U.S. Price/Unit of Measure	Non-U.S. Cost	Country of Non U.S. Materials
0	Ref #	Final Project	1	Each	\$720,000	\$425,000	\$565,000	\$72,500	\$155,000	Country A, Country B, Country C
1	Ref #	Manufactured Component	4	Ton	\$320,000	\$70,000	\$210,000	\$27,500	\$110,000	Non-U.S. Country A
1	Ref #	Manufactured Component	1	Each	\$100,000	\$100,000	\$100,000	\$0	\$0	Not Applicable
1	Ref #	Manufactured Component	1	Each	\$25,000	\$25,000	\$25,000	\$0	\$0	Not Applicable
1	Ref #	Manufactured Component	1	Sq. Ft.	\$100,000	\$60,000	\$60,000	\$40,000	\$40,000	Non-U.S. Country B
2	Ref #	Manufactured Subcomponent	1	Each	\$25,000	\$20,000	\$20,000	\$5,000	\$5,000	Non-U.S. Country C
1	Ref #	Manufactured Component	1	Each	\$50,000	\$50,000	\$50,000	\$0	\$0	Not Applicable
1	Ref #	Structural Steel Material	1	Tons	\$100,000	\$100,000	\$100,000	\$0	\$0	Not Applicable

Iron and Steel Products List

Table: Products List²

<p>Listed Items</p> <ul style="list-style-type: none"> Lined or unlined pipes Fittings Manhole Covers Hydrants Tanks Flanges Pipe clamps and restraints Valves Reinforced precast concrete Municipal castings (defined in more detail below) Structural steel (defined in more detail below) Construction materials (defined in more detail below) 			
<p>Municipal Castings</p> <p>Municipal castings are cast iron or steel infrastructure products that are melted and cast. They typically provide access, protection, or housing for components incorporated into utility owned drinking water, storm water, wastewater, and surface infrastructure. They are typically made of grey or ductile iron, or steel. Examples include but are not limited to:</p> <ul style="list-style-type: none"> Access Hatches Ballast Screen Benches (iron or steel) Bollards Cast Bases Cast Iron Hinged Hatches Cast Iron Riser Rings Catch Basin Inlet Cleanout/Monument Boxes Construction Covers and Frames Curb and Corner Guards Curb Openings Detectable Warning Plates Downspout Shoes (Boot, Inlet) Drainage Grates Frames and Curb Inlets Inlets Junction Boxes Lampposts Manhole Covers, Rings and Frames, Risers Meter Boxes Service Boxes Steel Hinged Hatches, Square and Rectangular Steel Riser Rings Trash receptacles Tree Grates and Tree Guards Trench Grates Valve Boxes, Covers and Risers 			
<p>Structural Steel</p> <p>Structural steel is rolled flanged shapes, having at least one dimension of their cross-section three inches or greater, which are used in the construction of bridges, buildings, ships, railroad rolling stock, and for numerous other constructional purposes. Such shapes are designated as wide-flange shapes, standard I-beams, channels, angles, tees and zees. Other shapes include H-piles, sheet piling, tie plates, cross ties, and those for other special purposes.</p>			
<p>Construction Materials</p> <p>Construction materials are those articles, materials, or supplies made primarily of iron and steel, that are permanently incorporated into the project, not including mechanical and/or electrical components, equipment, and systems. Some of these products may overlap with what is also considered "structural steel". Examples include but are not limited to:</p> <ul style="list-style-type: none"> Wire rod Bar Angles Concrete reinforcing bar Wire Wire cloth Wire rope and cables Tubing Framing Joists, trusses, fasteners (i.e., nuts and bolts) Welding rods Decking Grating Railings Stairs Access ramps Fire escapes Ladders Wall panels Dome structures Roofing Ductwork Surface drains Cable hanging systems Manhole steps Fencing and fence tubing Guardrails Doors Stationary screens 			

Manufacture vs. Purchase

How EPA Defines Manufacture and Purchase Related to BABA Compliance

Manufacture	Purchase
<p>A manufactured product is “manufactured in the United States” if the final manufacturing process is performed in the United States.</p>	<p>Products that meet EPA manufacturing and iron and steel requirements are considered eligible purchases under federal assistance agreements.</p>
<p>This final manufacturing process will entail either:</p> <ul style="list-style-type: none"> • Processing articles, materials, or supplies into a specific form or shape, or • Combining articles, materials, or supplies with other articles, materials, or supplies to create a product with different properties than the individual articles, materials, or supplies. 	
<p>For iron and steel products, the BABA requirements are the same as the existing American Iron and Steel requirements. All iron and steel in a covered product (that is, the product is comprised of more than 50% iron and steel by material cost) must be melted and poured in the United States and all subsequent manufacturing processes (such as grinding, rolling, bending, reheating, and casting) must occur in the United States.</p>	

General Waiver Process



Recipient requests waiver from EPA if the recipient reasonably believes a waiver is justified. A request to waive the application of the domestic content procurement preference must be provided to the EPA in writing.

Instructions and guidance on the format, contents, and supporting materials required for any waiver request is agency specific and provided by the EPA. The EPA will evaluate the request and conduct market research.

Before issuing a final waiver, the EPA must make the proposed waiver and the detailed written explanation publicly available. Waiver requests are subject to public comment periods of no less than 15 days and must be reviewed by the Office of Management and Budget (OMB)'s Made in America Office (MIAO). Approved waivers will be signed and posted on the EPA's approved waivers website.

Build America, Buy America Waivers

Types of Waivers:

1. General Applicability Waiver

- A waiver that applies generally across multiple Federal awards. A general applicability waiver can be “product-specific” (e.g., applies only to a product or category of products) or “non-product specific” (e.g., applies to all “manufactured products”).
- When the circumstances of any general waiver are applicable to an infrastructure project, BABA’s domestic content procurement preference does not apply.
- A Federal agency must provide a period of not less than 30 days for public comment on a proposal to modify or renew a waiver of general applicability.

2. Project-Specific Waiver

- After considering the applicability of available general waivers and obtaining necessary domestic content information, if both are not applicable, an assistance recipient can submit a project-specific waiver request.
- Submission of these waivers is done in coordination with the relevant agency.
- Project-specific waivers are applied for separately by each assistance recipient and for each unique project.

NOTE: Waivers must be from the Cognizant Agency - the agency contributing the greatest amount of Federal funds. This agency is responsible for consulting with the other Federal awarding agencies on waiver issues, waiver applications, publicizing the proposed joint waiver, and submitting the proposed joint waiver for review to the MIAO.

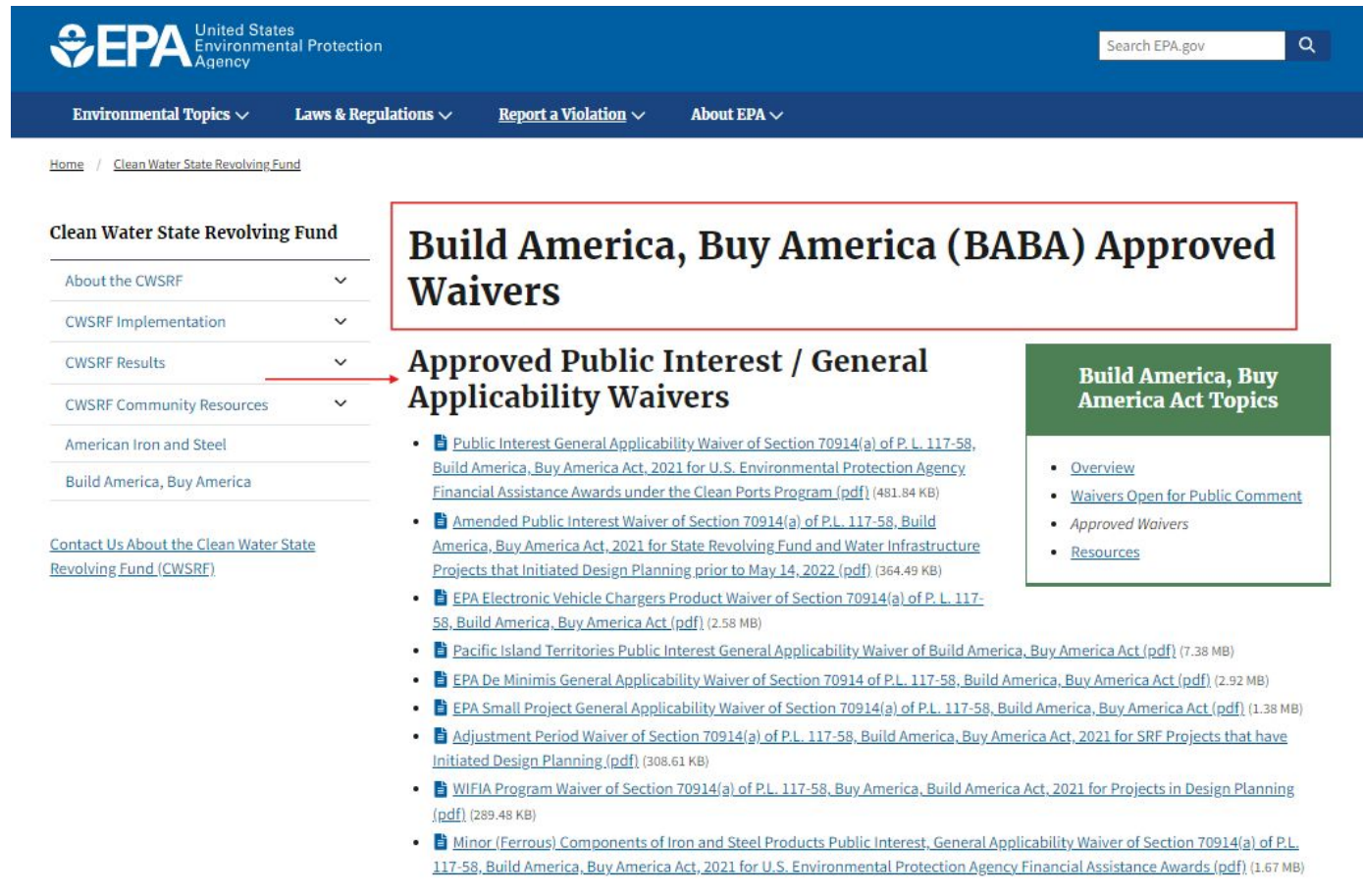
Waiver Justification

- A Federal agency may waive the application of a Buy America preference under an infrastructure program in any case in which the head of the Federal agency finds that:
 1. **Public Interest Waiver:** Applying the domestic content procurement preference would be inconsistent with the public interest.
 2. **Nonavailability Waiver:** Types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality.
 3. **Unreasonable Cost Waiver:** 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 percent.



EPA Waivers

[Build America, Buy America \(BABA\) Approved Waivers | US EPA](#)



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- American Iron and Steel
- Build America, Buy America

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Build America, Buy America (BABA) Approved Waivers

Approved Public Interest / General Applicability Waivers

- [Public Interest General Applicability Waiver of Section 70914\(a\) of P.L. 117-58, Build America, Buy America Act, 2021 for U.S. Environmental Protection Agency Financial Assistance Awards under the Clean Ports Program \(pdf\)](#) (481.84 KB)
- [Amended Public Interest Waiver of Section 70914\(a\) of P.L. 117-58, Build America, Buy America Act, 2021 for State Revolving Fund and Water Infrastructure Projects that Initiated Design Planning prior to May 14, 2022 \(pdf\)](#) (364.49 KB)
- [EPA Electronic Vehicle Chargers Product Waiver of Section 70914\(a\) of P.L. 117-58, Build America, Buy America Act \(pdf\)](#) (2.58 MB)
- [Pacific Island Territories Public Interest General Applicability Waiver of Build America, Buy America Act \(pdf\)](#) (7.38 MB)
- [EPA De Minimis General Applicability Waiver of Section 70914 of P.L. 117-58, Build America, Buy America Act \(pdf\)](#) (2.92 MB)
- [EPA Small Project General Applicability Waiver of Section 70914\(a\) of P.L. 117-58, Build America, Buy America Act \(pdf\)](#) (1.38 MB)
- [Adjustment Period Waiver of Section 70914\(a\) of P.L. 117-58, Build America, Buy America Act, 2021 for SRF Projects that have Initiated Design Planning \(pdf\)](#) (308.61 KB)
- [WIFIA Program Waiver of Section 70914\(a\) of P.L. 117-58, Buy America, Build America Act, 2021 for Projects in Design Planning \(pdf\)](#) (289.48 KB)
- [Minor \(Ferrous\) Components of Iron and Steel Products Public Interest, General Applicability Waiver of Section 70914\(a\) of P.L. 117-58, Build America, Buy America Act, 2021 for U.S. Environmental Protection Agency Financial Assistance Awards \(pdf\)](#) (1.67 MB)

Build America, Buy America Act Topics

- [Overview](#)
- [Waivers Open for Public Comment](#)
- [Approved Waivers](#)
- [Resources](#)

Approved Project-Specific Waivers

- [Project-Specific Public Interest Waiver of Build America, Buy America Act Requirements to the Milwaukee Metropolitan Sewerage District in Wisconsin for the Aeration System Upgrade Project at the South Shore Water Reclamation Facility \(pdf\)](#) (221.35 KB)

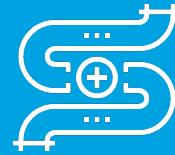
Relevant General Applicability/Public Interest EPA Waivers



Small Projects

BABA waived for small projects where EPA award or subaward is under \$250,000.

Expires in September 2027.



De Minimis

BABA waived for products used in the project that cumulatively comprise no more than 5% of the total project.

Expires in October 2027.



Minor Components

Allows an otherwise iron or steel product to contain up to 5% non-domestic content.

Expires in April 2028.



CCG BABA Requirements

Build America, Buy America Act (BABA): Certain projects under this NOFO may be subject to the Buy America domestic content sourcing requirements under the Build America, Buy America (BABA) provisions of the Infrastructure Investment and Jobs Act (IIJA) (P.L. 117-58, §§ 70911-70917). These provisions apply when using Federal funds for the purchase of goods, products, and materials on any form of construction, alteration, maintenance, or repair of infrastructure in the United States. BABA requires that all iron, steel, manufactured products, and construction materials consumed in, incorporated into, or affixed to federally funded infrastructure projects must be produced in the United States. Please consider this information when preparing budget information and your application. The award recipient must implement these requirements in its procurements, and these requirements must flow down to all subawards and contracts at any tier. For more information, consult EPA’s Build America, Buy America [website](#). When supported by rationale provided in the Infrastructure Investments and Jobs Act (IIJA) §70914, the recipient may submit a BABA waiver request to EPA. The recipient should request guidance on the submission instructions of an EPA waiver request from their EPA Project Officer. A list of approved EPA waivers is available on the BABA website. In addition to BABA requirements, all procurements under grants may be subject to the domestic preference provisions of 2 CFR §200.322.



Requirement 5. Readiness Approach: Given the statutory requirement that all Community Change Grants must be completed within three years, applicants must describe their approach for initiating grant performance upon award, or generally within 120 days after award, in compliance with the requirements in 2 CFR Parts 200 and 1500, 40 CFR Part 33 that apply to all EPA grants so they can successfully complete the grant within the three-year period.

This includes addressing the readiness considerations listed below, and any others, that are applicable to the projects and how they will be met. If any of the below considerations are not applicable, the application should explain why not.

- **Government Approvals:** If government approval at any level (e.g., construction permits) is necessary to implement or perform a project, the applicant must demonstrate that they have obtained such approval. If such approval has not been obtained, then the applicant must demonstrate how they will obtain it immediately after award, so it does not impede grant implementation.
- **Federal Requirements for Construction Projects:** Applicants must demonstrate that they have systems in place, or a plan to have such systems in place immediately after the grant award, to comply with CAA § 314 and the Davis-Bacon and Related Acts prevailing wage requirement, the Build America Buy America domestic preference requirement, and other cross-cutting statutory and Executive Order requirements that apply to Federally funded construction projects.
- **Alignment with Existing Plans:** Applicants must demonstrate that the project(s) in the Project Area as defined in Appendix A are consistent with any community development, climate resilience, or hazard mitigation plans, or other comparable government land use restrictions.
- **Site Control:** Applicants must demonstrate that they own or control the site where a project will be performed or that they will have legally binding access or permission to the site so they can perform the project(s).
- **Operations and Maintenance:** Applicants must describe their operations and maintenance plan and financing approach for their project’s infrastructure investments, if relevant, which may include long-term service costs, fee structures, detailed indebtedness for all properties, and other relevant information demonstrating how operations and maintenance of the investment will be assured during and after the grant award.



Project Component: Bus Electrification

	<h2>Project Scope</h2>	<ul style="list-style-type: none">• Purchase (3) 40-foot zero-emission buses (ZEBs) to run along 3 bus routes through the Project Area.• EV Chargers already available.
	<h2>BABA Requirement</h2>	<ul style="list-style-type: none">• BABA is not required for bus procurement since it is not affixed to infrastructure.• However, we advise double checking with the EPA project officer and cognizant agency to ensure compliance



Free Electric Shuttle Service



Project Scope

- 7-day a week electric micro-transit service that safely and efficiently shuttles project area residents. Install a solar charging and storage system for the shuttles as part of this project. A portion of the funding will to procure and install the solar charging system for shuttle service.

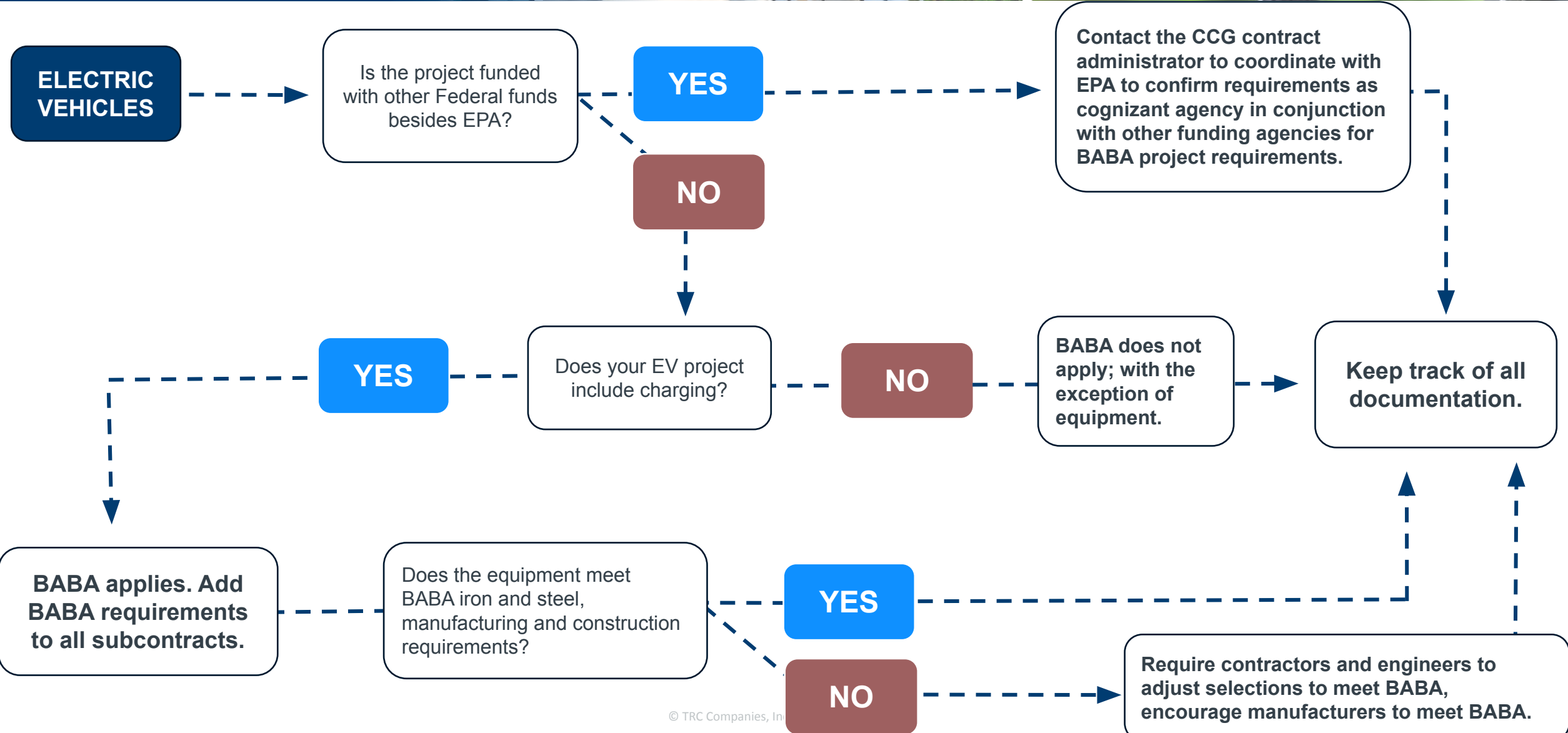


BABA Requirement

- BABA is required for solar and charging system.



EV/EV CHARGING





Energy Efficient Smart Homes



Project Scope

- Install rooftop solar panels with battery backup, home energy efficiency upgrades, electric appliances, weatherization upgrades, and water-wise drought tolerant landscaping for 25 homes in the project area.
- Funds to procure and install solar panels on rooftops with battery backup. Contractors will procure and install new electrical appliances and heat pumps, new weatherization upgrades, new drought tolerant waterwise landscaping.



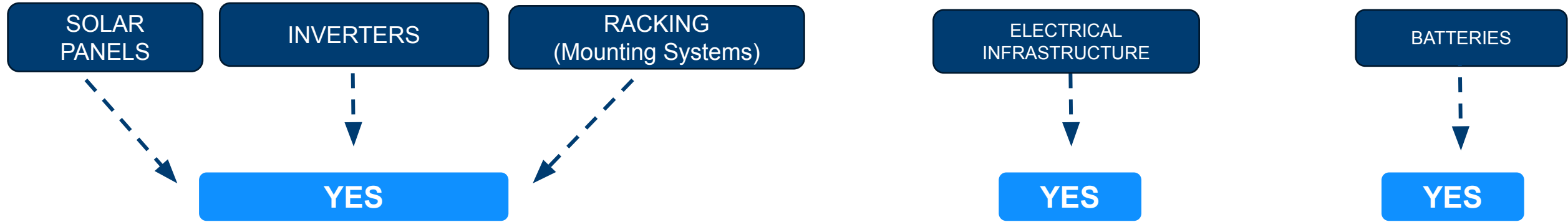
BABA Requirement



- BABA is required for solar panels, battery backups, heat pumps (size dependent), and construction materials for weatherization (according to categorized construction materials).
- BABA is not required for electrical appliances and drought tolerant waterwise landscaping.



Solar Panel Production



55% of Manufactured Products Produced in the US.

Manufactured products must be 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% of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation.

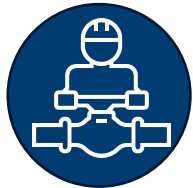
55% of Manufactured Products Produced in the US.

100% construction materials are manufactured in the United States for the following construction materials:

Nonferrous metals, plastic and polymer-based products, glass, fiber optic cable optical fiber, lumber, drywall, engineered wood.

55% of Manufactured Products Produced in the US.

Key Takeaways



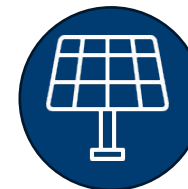
Keep BABA in mind and aim to utilize BABA compliant steel, iron, and manufactured products whenever applicable.



Ensure BABA requirements are explicitly shared in solicitations and subawards with contractors, vendors, manufacturers, etc. and that the complying with BABA requirements are reflected in their estimates and bids.



Keep documentation that items are made in the U.S. Retain manufacturer certifications for items.



If a domestic item or component is not readily available or without complications, check existing waivers from the EPA or request a project-specific waiver.



If there is a need to use an existing waiver or project-specific waiver, **make sure to keep documentation and that the use can be strongly justified.**



BABA requirements and waivers are EPA-specific. We are here to help!



Resources

- [Regulations: Buy America Preferences for Infrastructure Projects](#)
- [Explainer-BABA-and-Domestic-Content_CESA.pdf](#)
- [Videos | CCTA](#)
- [baba-101-webinar-slidedeckfinal.pdf](#)
- [Build America, Buy America \(BABA\) | US EPA](#)
- Build America, Buy America White House Information
- [White House BABA Final Guidance Q&A](#)
- [Final BABA Rule for Grants and Agreements](#)
- [Buy American vs. Buy America Fact Sheet](#)

Thanks!

**Pro bono support available:
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