



FAA Buy American Preference Implementation of IIJA, BABA, and Executive Order 14005 FACT SHEET

1. The FAA's existing domestic preference requirements meet or exceed most of the standards in the Buy American Build American Act (BABA).
2. "Made in America Laws" means all statutes, regulations, rules, and Executive Orders (E.O.) relating to Federal financial assistance awards or Federal procurement, including those that refer to "Buy America" or "Buy American," that require, or provide a preference for, the purchase or acquisition of goods, products, or materials produced in the United States, including iron, steel, and manufactured goods offered in the United States. ([Executive Order 14005](#))
3. The FAA adopts the BABA requirement for 100% domestically sourced iron into the FAA Buy American Preference requirements for domestic steel and manufactured goods.
4. Where applicable, the FAA has adopted additional domestic preference requirements called for by BABA, such as identifying the source of non-U.S. materials and including iron to those items required to be of 100% domestic sources.
5. If necessary, for eligible projects not already covered entirely under the FAA's requirements, the waiver request must be considered under additional BABA requirements.
6. BABA's "construction material" preference is largely incorporated under FAA's Type III waiver requirements. Individual construction materials are not eligible for FAA projects. The FAA only issues waivers for FAA eligible products/projects.
7. The FAA does not need a specific de minimus waiver as our grant projects exceed the de minimus amount historically. A Type III waiver can be used for the grant.
8. Any FAA funded projects executed prior to November 10, 2022 do not have to retroactively apply BABA requirements.
9. Applicants for FAA Buy American Preference waivers must identify the [reinforcement] iron, [structural] steel and manufactured goods in their application for a FAA Buy American Preference waiver. Additional guidance on how to identify these items may be obtained from the servicing field office or headquarters.
10. Applicants for FAA Buy American Preference waivers must identify the country of origin of all non-domestic costs.
11. The FAA has updated Federal Contract Provisions to include BABA requirements, Executive Order 14005, and Office of Management & Budget (OMB) guidance.
12. Airport Sponsors must replace the current Federal Contract Provisions with the updated Federal Contract Provisions that include BABA requirements in their procurement packages and ensure that each offeror or bidder completes the appropriate certification of compliance.
13. The updated version of the FAA Federal Contract Provisions is available for download from the FAA's [Procurement and Contracting under AIP – Federal Contract Provisions](#) webpage.
14. Waiver applicants must provide a written justification for the use of non-domestic iron or structural steel that describes efforts used to ensure that no domestic option exists. Including the use of the Manufacturing Extension Partnership (MEP) or market analyses.
15. Airport sponsors interested in a Type IV waiver for unreasonable costs, must provide a comparable bid, and written justification for the use of non-domestic iron, structural steel, or

manufactured good that includes a demonstration of its efforts to locate a domestic option, including the use of the MEP.

16. Pursuant to Office of Management & Budget (OMB) guidance, the component and subcomponents reviewed in eligible FAA projects for Buy American Preference requirements, are considered manufactured goods and will continue to be reviewed under 49 U.S.C. § 50101 (b)(3).
17. The FAA incorporated the five year limitation to all nationwide (general applicability) waivers pursuant to BABA requirements. To clarify, the documentation used to consider the waiver must be updated on all expired waivers. Products with expired waiver documentation must be updated and resubmitted to the FAA for consideration of renewal. The FAA's [Buy American Preference Requirements webpage](#) provides an updated list of all nationwide waivers. Previously listed nationwide waivers older than 180 days since the 11/15/2021 are now expired. Manufacturers may reapply by contacting the FAA Buy American office. Contractors that intend to use a nationwide waiver may contact the FAA for confirmation of its status. A product with expired Nationwide waiver documents may still be used on FAA eligible projects but limited to the life of single eligible FAA project.
18. In accordance with E.O. 14005, the FAA will coordinate with Manufacturing Extension Partnership (MEP) for Supplier Scouting to confirm the presence of domestic manufacturers of FAA eligible manufactured goods.
19. The FAA will continue to issue product specific nationwide (general applicability) waivers only when necessary to advance the agency's mission and goals consistent with IIJA, the Executive Order, and OMB guidance.
20. The list of domestically nonavailable articles is located at section 25.104(a) of the [Federal Acquisition Regulation](#).
21. The FAA will continue to make determinations as to whether an eligible project meets Buy American Preference and BABA requirements in the same manner.
22. The FAA, in accordance with [the Reauthorization Act of 2018](#) (P.L. 115-254), publishes approved waivers on the FAA website for 10 days for public and industry comment before the waiver shall become effective for use by the airport sponsor. The FAA has adopted Made in America Office (MIAO) standard language for each published justification.
23. Made in American laws, including the FAA and BABA domestic preference requirements are incorporated into all FAA notices of funding opportunity (NOFO).
24. The FAA has included appropriate terms and conditions in all awards in order to effectuate BABA requirements.
25. Any FAA subawards/subrecipients must conform to the Buy American terms and conditions of the FAA award from which they flow. Subrecipients are responsible for collecting from procurement winners or airport sponsors all required documentation needed the FAA in order to receive a determination. Subrecipients are encouraged to contact the recipient to ensure they are meeting requirements.
26. The FAA offers a variety of resources for airport sponsors, consultants, manufacturers and other applicants to include:
 - a. Presentations
 - b. Courtesy Reviews & Consultations
 - c. Fact Sheets

Please contact us via email at the "[Questions about Buy American Requirements](#)" link located on the Buy American Preference Requirements webpage.

