

Build America, Buy America Certification Materials for Office of Energy Innovation Grant Programs

Overview:

The Build America Buy America (BABA) provisions within the Infrastructure Investments and Jobs Act of 2021 (IIJA), also known as the Bipartisan Infrastructure Law, requires that “none of the funds made available for a Federal award for an infrastructure project may be obligated **unless all of the iron, steel, manufactured products, and construction materials incorporated into the project are produced in the United States.**”¹ Multiple Office of Energy Innovation (OEI) grant programs are funded by IIJA including the [Wisconsin Grid Resilience Program](#), [Energy Innovation Grant Program](#) 2023 grant round, and the [Rural Energy Startup Program](#).

All subrecipients (OEI Grantees), and their bidders, contractors and vendors are responsible for obtaining and/or producing:

- 1) **certification of compliance that a good faith effort was made to solicit bids for domestic products; and**
- 2) **certifications or equivalent documentation for proof of compliance from the suppliers or manufacturers of the iron, steel, manufactured products and construction materials.**

Therefore, all subrecipients (OEI Grantees), and their bidders, contractors and vendors are strongly encouraged to review the latest Federal guidance and the Federal Special Terms and Conditions (Federal Flow Down Provisions) related to the respective IIJA funded program.

- Federal Guidance from the U.S. Office of Management and Budget (OMB) and the U.S. Department of Energy (US DOE):
 - U.S. OMB: [Implementation Guidance on Application of Buy America Preference in Federal Financial Assistance Programs for Infrastructure](#)
 - U.S. DOE: [DOE's Implementation of the Buy America Requirement for Infrastructure Projects](#)
- Federal Flow Down provisions related to OEI Grant Programs:
 - Wisconsin Grid Resilience Program:
[Special Terms and Conditions for Use in Formula Grants Issued Under the Grid Deployment Office Administrative and Legal Requirements Document](#)
 - Energy Innovation Grant Program 2023:
[Special Terms and Conditions for Use in Formula Grants Issued Under the Bipartisan Infrastructure Law \(BIL\) Administrative and Legal Requirements Document](#)
 - Rural Energy Startup Program:
[Special Terms and Conditions for Use in Energy Efficiency and Conservation Block Grant Program](#)

For the convenience of subrecipients and their contractors and vendors, OEI provides the following to assist in demonstrating compliance with Build America, Buy America:

1) (Required) BABA Status Workbook (Attachment A)

¹ [eCFR: 2 CFR 184.1 - Purpose and policy](#). See also § 70914(a) of the IIJA.

Note: The workbook (excel file) assists with demonstrating a **good faith effort was made to solicit bids for domestic products and** organizing the information needed for each item's certification. Additional methods of demonstrating good faith effort may include:

- Providing the Federal Flow Down Provisions to prospective or selected contractors or vendors for domestic products such as by including in requests for bids/proposals, contracts, and/or other written communications.
- Including the Certification Letter Template (Attachment B) in the request for bids/proposals, contracts, and/or other written communications.

2) Sample BABA Certification Letter Template (Attachment B)

Note: The sample template assists with demonstrating **proof of compliance from the suppliers or manufacturers of the iron, steel, manufactured products and construction materials**. Completed letters by manufacturers or suppliers on their company letterhead must be provided to subrecipients who are then responsible for submitting them to OEI. The manufacturer may provide their own certification letter or equivalent documentation if it clearly states all of the following:

- the manufacturer name;
- the federally funded project and location;
- category of item (i.e., iron and/or steel, construction material , manufactured item);
- a detailed statement describing how the item is in compliance with the Build America Buy America Requirement;
- city and state where the item will be or has been manufactured in the foundry, mill, or factory;
- and signature by their authorized official.

Important: If the information needed for the Required BABA Status Workbook or the Sample BABA Certification Letter Template, or equivalent documentation, cannot be provided for any project item, immediately notify your OEI Grant Coordinator. In limited circumstances, the OEI may assist subrecipients in pursuing a U.S. DOE waiver.

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[Attachment A – BABA Status Workbook](#)

Build America, Buy America Certification Materials for OEI Grant Programs
[Attachment B - Sample BABA Certification Letter Template](#)