

BABA Contract Language (Required for All Contracts and Subcontracts)

All contracts, subcontracts, and purchase orders funded as a whole or in part with federal financial assistance for infrastructure projects shall include the following provision as a required contract clause (insert in full in contracts and subcontracts):

Buy America Domestic Procurement Preference

As required by Section 70914 of the Infrastructure Investment and Jobs Act (IIJA), P.L. 117-58, and implementing regulations at 2 CFR part 184 and 2 CFR 200.322, none of the funds under a federal award that are part of a Federal financial assistance program for infrastructure may be obligated for a project unless all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States, unless subject to a waiver approved by the Federal awarding agency.¹ This requirement must be included in all subawards, contracts, and purchase orders for work or products under this program.

Contractors acknowledges and agrees that none of the funds provided under this award may be used for a project for infrastructure unless all iron and steel used in the project are produced in the United States, meaning all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States; all manufactured products used in the project are produced in the United States, meaning the product was manufactured in the United States and the cost of components mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components (unless a higher standard applies); and all construction materials are manufactured in the United States, meaning all manufacturing processes for the construction material occurred in the United States.

This requirement applies only to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. It does not apply to tools, equipment, and supplies brought to the construction site and removed at or before completion of the project, nor to equipment and furnishings that are not permanently affixed to the infrastructure.

Contractors shall include this provision in all lower-tier subcontracts and purchase orders.

¹ [2 CFR part 184](#) and [2 CFR 200.322](#)

When applicable, waivers may be requested through the awarding entity and must be approved by the Federal awarding agency. Allowable waiver types include nonavailability, unreasonable cost, and public interest, and must be approved prior to the use of non-compliant materials.

Contractor and subcontractors must certify compliance with these requirements and provide supporting documentation upon request.