



## Build America, Buy America

### Compliance

February 2025

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The Build America, Buy America Act (“BABA”) was signed into law by President Biden on November 15, 2021, as part of the Infrastructure Investment and Jobs Act (Pub. L. No. 117-58). The intent of BABA is to stimulate private sector investments in American manufacturing, bolster critical American supply chains, and support the creation of jobs so America’s workers and firms can compete and lead globally for years to come.

BABA requires that certain materials purchased in connection with infrastructure projects, which includes all housing projects developed with NH Housing, funded by **certain** Federal financial assistance programs be produced in the United States. This requirement is known as the Buy America Preference (“BAP”). An infrastructure project is defined as any project that includes construction, alteration, maintenance, or repair of: buildings and real property; utilities; water systems (drinking water and waste water); electrical transmission facilities and systems; broadband infrastructure; and transportation infrastructure. Any federally funded infrastructure project that uses **iron and steel, manufactured products and/or construction materials** must ensure the products/materials are produced in the United States.

- A. Iron and Steel Products. The term “iron and steel products” is defined in 2 CFR 184.3 and means an article, material, or supply that consists wholly or predominantly of iron or steel, or a combination of both.
- B. Manufactured Products is defined in 2 CFR 184.3 and means:
  - i. Articles, materials, or supplies that have been:
    - a. Processed into a specific form and shape; or
    - b. Combined with other articles, materials, or supplies to create a product with different properties than the individual articles, materials, or supplies.
  - ii. If an item is classified as an iron or steel product, a construction material, or a section 70917(c) material under 2 CFR 184.4(e) and the definitions set forth in this section, then it is not a manufactured product. However, an article, material, or supply classified as a manufactured product under 2 CFR 184.4(e) and paragraph (1) of this definition may include components that are construction materials, iron or steel products, or section 70917(c) materials.

C. Construction Materials is defined in 2 CFR § 184.3 and means articles, materials, or supplies that consist of only one of the items listed in paragraph (1) of this definition, except as provided in paragraph (2) of this definition. To the extent one of the items listed in paragraph (1) contains as inputs other items listed in paragraph (1), it is nonetheless a construction material.

(1) The listed items are:

- i. Non-ferrous metals;
- ii. Plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables);
- iii. Glass (including optic glass);
- iv. Fiber optic cable (including drop cable);
- v. Optical fiber;
- vi. Lumber;
- vii. Engineered wood, and
- viii. Drywall.

(2) Minor additions of articles, materials, supplies or binding agents to a construction material do not change the categorization of the construction material.

The following types of waivers will be considered:

- A. Public Interest Waiver
- B. Nonavailability Waiver
- C. Unreasonable Cost Waiver

Contractors are encouraged to use the services of New Hampshire Manufacturing Extension Partnership (NH MEP) at [NHMEP.org](http://NHMEP.org) for assistance with locating American made products that comply with the requirements. There is no charge for the services they provide. Use of this service will help ensure that con

## **Resources**

[CPD-2023-12](#)

[FAQ's](#)

NH MEP- Manufacturing Extension Partnership  
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