

## Build America, Buy America (BABA) Overview & Guidance

**Form: BA1**

Last updated 10-01-2025

### HISTORY:

Buy America requirements originated in 1983 in the Code of Federal Regulations 23CFR 635.410. Part 1 states: "The project either: (i) Includes no permanently incorporated steel or iron materials, or (ii) if steel or iron materials are to be used, all manufacturing processes, including application of a coating, for these materials must occur in the United States. Coating includes all processes which protect or enhance the value of the material to which the coating is applied. "This applied to all projects where Federal aid is involved.

Beginning January 1, 2014, per section 1518 of MAP-21, if the project as defined by National Environmental Policy Act (NEPA), has at least one authorized Federal-Aid Highway Program (FAHP) construction contract, all utility relocations eligible for federal reimbursement utility work must meet Buy America regardless of funding source.

The Infrastructure Investment and Jobs Act (IIJA) introduced the Build America, Buy America (BABA) Act. This includes changes to what is defined in the bill as "Construction Materials".

The Bipartisan Infrastructure Law (BIL) 70914, November 2021, mandates for BABA that all iron, steel, manufactured products, and construction materials used in projects supported by federal funds be produced in the United States.

[Iowa Department of Transportation Standard Specification 1107.06](#) covers BABA requirements for the Iowa Department of Transportation (department) contractor. On federal aid contracts and contracts where the department is the contracting authority, all products of iron, steel, and construction materials, which are permanently incorporated into the work, shall comply with the BABA and [Materials I.M. 107](#).

### Iron and Steel

- In BIL 70914 apply only to the extent that Federal agencies do not already apply a BA preference. **Title 23 funded highway projects already require the use of domestic iron and steel for any iron and steel to be permanently incorporated into the project.**
- Articles, materials, or supplies that **consist wholly or predominantly of iron and steel or a combination of both**. All manufacturing processes, from the initial melting state through the application of coatings, occurred in the U.S. (***Predominantly means the cost of the iron and steel content exceeds 50% of the total cost of all its components.***)
- The de minimis (minimal use) threshold in 23 CFR 635.410(b)(4) continues to apply for iron and steel. **Total cost** of all foreign source items **used in the contract, as delivered to the project site**, is **less than \$2,500** or one-tenth of 1% of the total contract amount, whichever is greater.

## Manufactured Products

- Articles, materials, or supplies that have been: (i) **processed into a specific form and shape**; or (ii) **combined** with other articles, materials, or supplies **to create a product with different properties than the individual articles, materials, or supplies**.
- FHWA general waiver 48 FR 53099 (November 25, 1983) for manufactured products **is no longer in effect as of October 1, 2025**.

## Construction Materials

- Non-ferrous metals.** All manufacturing processes, from initial smelting or melting through final shaping, coating, and assembly, occurred in the U.S.
- Plastic and polymer-based products.** All manufacturing processes, from initial combination of constituent plastic or polymer-based inputs, or, where applicable, constituent composite materials, until the item is in its final form, occurred in the U.S.
- Glass.** All manufacturing processes, from initial batching and melting of raw materials through annealing, cooling, and cutting, occurred in the U.S.
- Fiber optic cable (including drop cable).** All manufacturing processes, from initial ribboning (if applicable), through buffering, fiber stranding and jacketing, occurred in the U.S. *All manufacturing processes also include the standards for glass and optical fiber, but not for non-ferrous metals, plastic and polymer-based products, or any others.*
- Optical fiber.** All manufacturing processes, from initial preform fabrication stage through the completion of the draw, occurred in the U.S.
- Lumber.** All manufacturing processes, from initial debarking through treatment and planing, occurred in the U.S.
- Drywall.** All manufacturing processes, from initial blending of mined or synthetic gypsum plaster and additives through cutting and drying of sandwiched panels, occurred in the U.S.
- Engineered wood.** All manufacturing processes, from initial combination of constituent materials until the wood product is in its final form, occurred in the U.S.

**What does this mean for utility relocations?** Essentially, all products of iron and steel, manufactured products, and construction materials will need to have a certification statement that states it was manufactured in the United States of America.

#### APPLICABILITY:

- BABA requirements only affect products containing iron, steel, construction materials, and manufactured products permanently incorporated into the work.
- BABA only applies to relocations of utility facilities that must move due to highway projects under certain specific conditions as stated below.
- BABA applies if the utility relocation is **eligible** for reimbursement with federal funds, however in the case of BABA few of the eligible relocations will be reimbursed. See below for eligibility criteria and reimbursement guidance.
- BABA applies in the case where the utility relocation is included in the federal-aid contract. This can be through an agreement with the department or a local agency.

#### Projects where BABA applies to utility relocations in Iowa:

There are four primary cases when BABA provisions must be applied to utility relocations in Iowa.

##### **Case 1, Agreement work**

This case involves relocation of a utility on private property (fee title or easement) in response to an Iowa Department of Transportation (department) project where any federal funds are used within the NEPA project boundary and where property rights require the department to reimburse the utility for relocation. This case applies when the project is on any primary highway or freeway under the jurisdiction of the department.

##### **Case 2, Interstate project relocation - department permitted work**

This case involves relocation of any utility inside primary highway rights-of-way due to a department project on the interstate system and any federal funds are used within the NEPA project boundary. The reason this case applies in Iowa is because this relocation is eligible for reimbursement due to Iowa Code Section 306A.10 that states the relocation **may** be paid. While the relocation of the utility facility is **eligible** for reimbursement, historically, the department has not paid for such relocations.

##### **Case 3, Interstate project relocation – city or county permitted or franchised work**

This case involves relocation of any utility inside city or county right of way due to a department project on the interstate system and any federal funds are used within the NEPA project boundary. The reason this case applies in Iowa is because this relocation is eligible for reimbursement due to Iowa Code Section 306A.10 that states the relocation **may** be paid. While the relocation of the utility facility is **eligible** for reimbursement, historically, the department has not paid for such relocations.

##### **Case 4, Utility relocation is included in a federal-aid contract**

This involves relocation of any utility that is done as part of a federal-aid department project or a federal aid local agency project due to Article 1107.06 of the department's standard specification. This could be a project on a primary highway or city street. Special provisions may not override or circumvent the requirements of the specifications for BABA compliance.

**How to comply with BABA provisions (Case 1,2,3):**

1. The department will determine if BABA applies to utility relocations based on department or local agency project requirements.
2. Submit Materials Certification\* to the department.
  - Case 1: Submit with the department reimbursement agreement documents.
  - Case 2: Submit with the department permit request documents.
  - Case 3: Submit to the department with issued city or county permit or franchise documents.
3. Complete the relocation work in accordance with the BABA requirements.
4. Retain verification paperwork (i.e., mill and/or step certifications, bills of lading, manufacturers' certificates, etc.) for all BABA materials for a period of 5 years from the date of issuance of the permit or reimbursement agreement. Field audits of the materials and/or office audits of the certification paperwork by department personnel should be expected.

**How to comply with BABA provisions (Case 4):**

Submit Materials Certification\* according to Article 1107.06 of the department standard specifications. The process is identified I.M. 107. <https://ia.iowadot.gov/erl/current/IM/content/107.htm>

**Minimal Use of Foreign Steel:**

FHWA regulations permit a minimal use of foreign steel and iron in the amount of \$2,500 or one-tenth of one percent of the utility relocation contract/cost, whichever is greater. This amount would be the total amount of foreign steel or iron allowed on the utility project across all the materials supplied.

**Incorporation of any foreign steel must be preapproved by the department.**

**\*Materials Certification Forms:**

Certificate of Build America, Buy America Compliance for Construction Material or Manufactured Product (Materials I.M. 107 Appendix A) <https://ia.iowadot.gov/erl/current/IM/content/107aa.pdf>

Certificate of Build America, Buy America Compliance for Iron and Steel (Materials I.M. 107 Appendix B) <https://ia.iowadot.gov/erl/current/IM/content/107ab.pdf>

Domestic Materials Self-Certification Form is available online here: <https://transportation.org/product-evaluation-and-audit-solutions/domestic-materials-self-certification-form/>