

This document is meant to be an introduction to the Build America, Buy America Act. The Build America, Buy America Act applies to the Greenhouse Gas Reduction Fund (GGRF) program. CDFIs participating in the GGRF will likely have many questions about their Build America, Buy America Act requirements. At the time of the writing of this document, relatively little information is available about those requirements. What information is available can be found [here](#). Expect more information to become available when the Environmental Protection Agency releases additional guidance documents about the GGRF and the Build America, Buy America Act.

Introduction

The Build America, Buy America Act (BABA), enacted as part of the Infrastructure Investment and Jobs Act (IIJA) on November 15, 2021, aims to bolster American manufacturing and job creation by ensuring that U.S.-produced materials are used in federally funded infrastructure projects. This legislation establishes a domestic content procurement preference, commonly referred to as the "Buy America Preference" (BAP), which applies to all federal financial assistance obligated for infrastructure projects after May 14, 2022.

Key Provisions

Domestic Content Requirements

The BABA mandates that all iron and steel, manufactured products, and construction materials used in covered infrastructure projects must be produced in the United States. This requirement applies to all federally funded infrastructure projects, regardless of whether the funds originate from the IIJA itself. The domestic content requirement is designed to stimulate American manufacturing, strengthen supply chains, and support job creation in the U.S..

Implementation and Waivers

The Office of Management and Budget (OMB) provides guidance for implementing the BABA requirements. Agencies must ensure compliance with these requirements, and they have the authority to issue waivers under specific circumstances, such as nonavailability, unreasonable cost, or public interest. Waivers are intended to be limited and targeted, promoting investment in domestic manufacturing rather than serving as an alternative to increasing domestic production.

Applicability and Impact

The BABA applies to three main categories of products in infrastructure projects: iron or steel products, manufactured products, and construction materials. The law specifies that only items permanently incorporated into an infrastructure project are subject to the Buy America requirements, excluding tools and temporary furnishings. The BABA's implementation is expected to create a "virtuous cycle" of infrastructure investment, supply chain strengthening, and alignment with other federal priorities, such as sustainability and equity.

Challenges and Guidance

Despite the clear intent of the BABA, its implementation has generated uncertainty across various infrastructure sectors. The OMB has issued guidance to clarify the requirements and processes for compliance, including the identification of "deficient programs" not previously covered by similar Buy America requirements. The guidance also provides clarity on what constitutes U.S. manufacturing processes for different construction materials and how to determine compliance for composite items.

Conclusion

The Build America, Buy America Act represents a significant shift in federal infrastructure policy, emphasizing the use of domestically produced materials to support American industry and labor. By requiring federal infrastructure projects to adhere to these domestic content standards, the BABA aims to revitalize American manufacturing and ensure that infrastructure investments benefit U.S. workers and communities. As the law continues to be implemented, ongoing guidance and adjustments will be necessary to address the complexities and challenges that arise in aligning federal projects with the BABA's ambitious goals.