



July 29, 2026

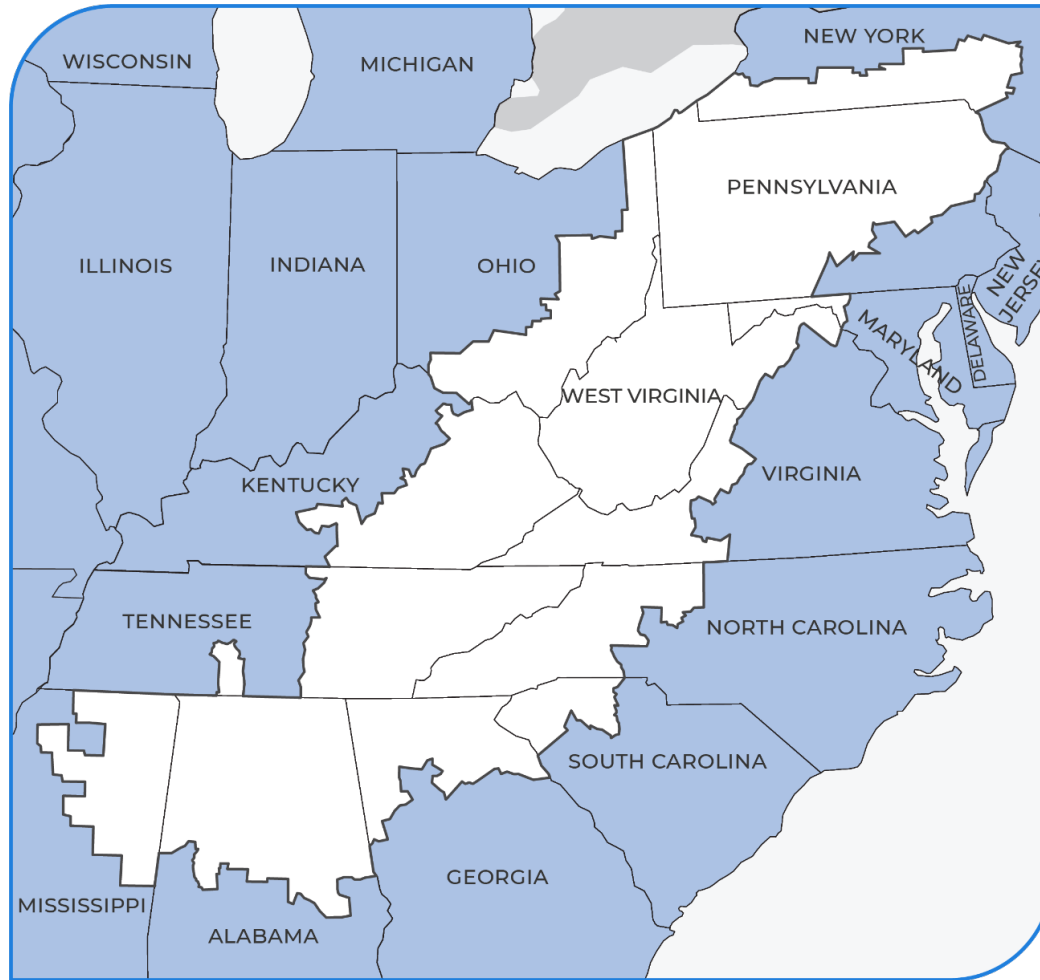
ARC Buy America Preference Implementation

Development District Association of Appalachia

Agenda

- 1 What is Buy America Build America (BABA) and when does it apply?
- 2 New BABA Guidance and Manuals
- 3 BABA Essentials
- 4 BABA Project Planning
- 5 Integrating BABA into Grant Process
- 6 BABA Waivers
- 7 Risks of Non-compliance

Appalachian Region



- 13 states
- 423 counties
- 206,000 square miles
- 26 million people
- 74 local development districts

What is Buy America Preference under Build America Buy America Act (BABA)?

- Imposed by BABA under Infrastructure Investments and Jobs Act of 2021 (aka BIL)
- Requires head of each Federal Agency to ensure no funds for awards for **infrastructure projects** may be obligated unless all iron, steel, manufactured products, and construction materials are **produced in the United States**

When does BABA Apply?

Construction, alteration, maintenance, or repair that creates or improves publicly owned or operated *infrastructure* project.

Federally assisted projects for transportation, energy, water, and broadband—whether performed by state, local, tribal governments, or private entities acting under federal assistance.

Does not apply to purely R&D or Non-construction assistance such as training or planning grants.

BABA Specifics

- **Iron and Steel:** initial melting though the application of coating in the U.S.
- **Construction Materials:** all manufacturing processes in the U.S.
- **Manufactured Products:**
 - (1) articles/materials/supplies that have been i. processed into a specific form and shape OR ii. combined with other article/materials/supplies to create product with different properties;
 - (2) not a manufactured product in iron or steel or construction material

Planning for BABA Compliance

Identify covered materials and products

Assess domestic availability

Develop preliminary cost estimates

Incorporate BABA into the project budget

Evaluate project schedule impacts

Review potential waiver needs

Plan for documentation

Integrating BABA into Grant Process

- Integration into Contracts and Sub-awards- ARC Standard Term
 - *Subrecipients' Certification of Compliance*
- Integration into Project procurement-ARC Standard Term
 - Bids and Awards
 - Project Specifications
 - Project Design
- Documenting Compliance
 - Grante must work with the RSBA to monitor subgrantees' compliance

Integrating BABA into Grant Process - Certifications

- Varies by Agency
- ARC Certification/attestation must clearly identify each product, BABA standard and include ARC specific certification language- ARC Templates:
 - Subawards
 - Contractors/subs
 - Manufacturers

BABA Waivers

**Public
Interest**

**Non-availability/
Insufficient
Quantity or
Quality**

**Increased
Cost**

Public Interest BABA Waiver

- Agency determines other important policy goals cannot be achieved consistent with BABA
- Applies to range of agency projects without further submissions or approvals
- May differ from agency to agency
 - Example:
 - Small Grants-
 - \$250,000 to \$350,000 Simplified Acquisition Threshold

Non-availability BABA Waiver

- Items not produced in US in sufficient and reasonable quantities or of a satisfactory quality
- Must conduct/submit market research:
 - Qualifying alternative products or materials
 - timing
- Most common type of waiver

Unreasonable Cost BABA Waiver

- Iron, steel, manufactured products or construction materials increases cost of **overall project** by > 25%
- Must be supported by strong calculations.
- Least Common type of waiver

Overview of Waiver Process

6-12 Months

Request based on guidelines (ARC Template)

ARC submits draft to Made in America Office (MIAO)

Approved waiver public comment (15-30 days)

ARC/MIAO adjudicate comments + MIAO approves

Final waiver on MIAO and ARC websites

Waiver Requests and Implementation

- *ARC BABA Waiver Request Form*
 - Submitted only by RSBA
- RSBA/grantees and subgrantees must document application of General Applicability Waivers.
 - Basic Agency Monitoring Report (BAMR).
- Waivers **do not** apply to expenditures incurred before waiver effective date.

Risk of Noncompliance

- Disallowed costs and repayment obligations
- Withholding or suspension of payments until compliance is demonstrated
- Imposition of special award conditions (enhanced reporting, prior approvals)
- Loss or delay of future funding
- Audit findings and adverse monitoring results (OIG, GAO, ARC reviews)
- Termination of awards for continued or unresolved noncompliance
- Legal exposure from false certifications or misrepresentations
- Reputational harm affecting competitiveness for future awards

Questions?



Appalachian
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Commission

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In the Region

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