Build America, Buy America (BABA) Waiver Open for Public Comment

The Bipartisan Infrastructure Bill (BIL) (also known as the Infrastructure Investments and Jobs Act), established supplemental funding for the State Revolving Fund (SRF) Program. Beginning July 1, 2022, Alaska’s SRF Program will have access to more than $65 million per year for the next five years. These funds will be made available to eligible municipalities and public water systems in the form of low interest and heavily subsidized loans for sanitation infrastructure and water quality improvement projects.

Alongside BIL, Congress passed the Build America Buy America (BABA) Act which expands domestic preference purchasing requirements to all federal funding, including the SRF Program. Effective May 14, 2022 BABA applies to procurement of iron and steel products, manufactured products, and construction materials such as glass, concrete, lumber, plastics when federal funds are used.

SRF funded projects with loan agreements in place prior to May 14, 2022 are not subject to BABA requirements. The Environmental Protection Agency, which funds the SRF Program, has proposed a public interest waiver for those projects with engineering plans and specifications submitted prior to May 14, 2022. The waiver can be viewed here: https://www.epa.gov/system/files/documents/2022-06/Proposed%20SRF%20Plans%20and%20Spec%20Waiver%20BABA%20June%202022.pdf

Oversight of this law will be handled by the Made in America Office (MIAO). To comment on this proposed waiver, email: BAB-OW@epa.gov by June 29, 2022.

What funding does BABA cover?

Although it was passed alongside BIL, BABA is distinct legislation that applies to all federal funding from May 14, 2022 forward, not just those funds allocated through Bipartisan Infrastructure Law (BIL). To be clear, this means all SRF-funds trigger BABA requirements whether the funding is allocated through annual base SRF funding, or supplemental funding provided by BIL.

What items are covered by BABA?

1. Iron and steel
   All iron and steel used in the project are produced in the United States. This means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

2. Manufactured products
   All manufactured products used in the project are produced in the United States. This means the manufactured product was manufactured in the United States, and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation.

3. Construction materials
   All construction materials are manufactured in the United States. This means that all manufacturing processes for the construction material occurred in the United States.

Are guidance documents available?

EPA has not yet provided a guidance document for the implementation of BABA requirements.