

**Build America Buy America (BABA)
Funding Agency Coordination:
USDA Rural Development, DEQ SRF,
Community Development Block Grants**

What is BABA?

Construction projects that are funded with federal grants issued after May 14, 2022 must comply with Build America, Buy America requirements (unless a national waiver applies). The following products and materials must be purchased domestically:

➤ **Iron and Steel**

- Same as AIS

➤ **Manufactured Products**

- Cost of components that are mined, produced, or manufactured in the U.S. is greater than 55 percent of the total cost of all components of the manufactured product

➤ **Construction Materials**

- Non-ferrous metals, plastic and polymer-based products (including PVC, composite building materials, and polymers used in fiber optic cables), glass (including optic glass), lumber, drywall

RD, SRF, and CDBG all receive and use federal grants to fund their programs.

❖ **SUMMARY:** All products/materials in a construction project for drinking water and wastewater systems must meet BABA with the exception of cement and cementitious materials, aggregates such as stone, sand, gravel, and aggregate binding agents/additives.

Examples of Products/Materials

Manufactured Products

- Pumps
- Motors
- Blowers/Aerators
- Generators
- Instrumentation and control systems
- Meters
- Treatment equipment
- Valves (<50% iron/steel)
- Meters
- HVAC

Construction Materials

- PVC pipe
- PVC fittings
- Nonferrous roofing materials
- Materials used to construct a building
 - Drywall
 - Lumber or engineered wood
- Fiber optic cable

Iron and Steel Products

- Valves (>50% iron/steel)
- Hydrants
- Tanks
- Pre-cast iron/steel reinforced concrete
- Fencing
- Lined/unlined pipe
- Pipe fittings
- Municipal castings
- Manhole covers

BABA Product Waivers

- **Types of product-specific waivers**
 - **Nonavailability waiver**
 - **Not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality**
 - **Public interest waiver**
 - **Applying the domestic content procurement preference would be inconsistent with the public interest**
 - **Cost waiver**
 - **Applying the domestic content procurement preference will increase the cost of the overall project by more than 25 percent**

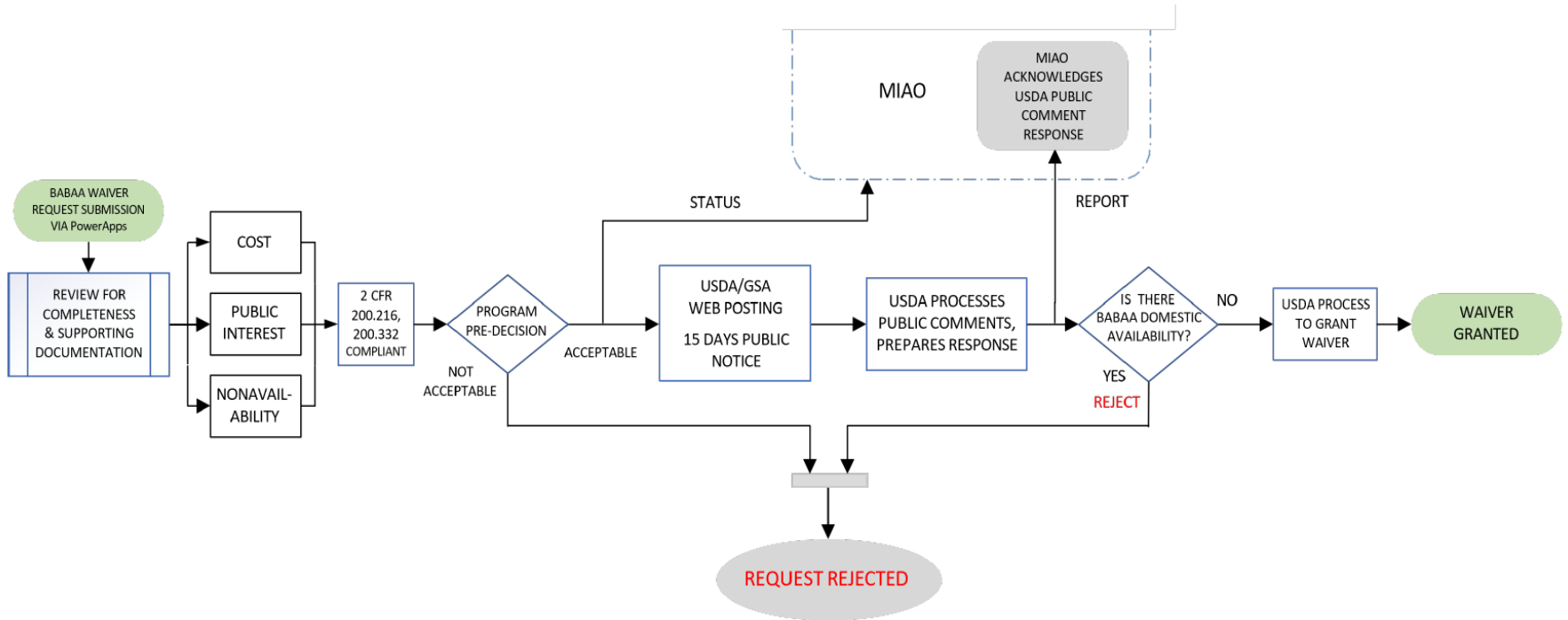
NOTE: If you think you need a product waiver, apply for it as early as possible. Federal agency waiver review times can be extensive.

Applying for a BABA Product Waiver

- **Borrower/grant recipient applies for waiver by providing supporting documentation to the funding agency (RD, SRF, CDBG)**
- **Supporting documentation includes:**
 - **Brief summary of the project,**
 - **Description/explanation of the need for the waiver,**
 - **Brief summary of the due diligence conducted in search of domestic alternatives,**
 - **Quantity and materials of the product(s) in question,**
 - **Engineering specifications and project design considerations regarding product,**
 - **Unit cost of items (both foreign and domestic) in addition to an estimated cost of the materials and overall project,**
 - **Date any products will be needed on site in order to avoid significant project schedule disruptions, and**
 - **Any other pertinent information**
- **Funding agency reviews waiver to ensure completeness and submits to respective federal agency for review**
 - **Public notice (15 days)**
 - **Made In America Office review**
- **Keep in mind, each federal agency may have some variations to this process but required information is generally the same**

Work with your funding agency on the waiver process.

Waiver Process Example



BABA National Waivers

- **SRF**

- Adjustment Period Waiver – “Documented” projects prior to May 14, 2022
- Small Project/Award Threshold Waiver - <\$250,000
- De Minimis Waiver – 5% total project cost

Note for SRF and RD:
If BABA waiver, AIS
still applies

- **RD**

- Projects on or before February 3, 2023
- Small Project/Award Threshold Waiver - <\$250,000
- De Minimis Waiver – 5% total project cost

- **CDBG**

- Funds obligated before November 14, 2022
- Small Project/Award Threshold Waiver - <\$250,000

Co-funded Projects

- **Cognizant Agency**
 - Federal funder with the most dollars in the project
- **National waiver coordination**
 - If the cognizant agency has a national BABA waiver, will the other federal agencies follow their waivers (or lack thereof)?

Federal Funder	Follow Cognizant Agency National Waiver(s) or Lack Thereof?
EPA (SRF)	Yes
USDA (RD)	Yes
HUD (CDBG)	Yes
DOI (BOR)	No
USACE (WRDA)	Yes (for now)

- **Product-specific waivers for individual projects**
 - Go to Cognizant Agency for review and processing
- **National product waivers**
 - Products that are not made domestically or have well-established domestic sourcing challenges (e.g., SS nuts and bolts waiver under AIS)
 - TBD and hopefully apply to all federal agencies