ILLINOIS FINANCE AUTHORITY

ILLINOIS CLIMATE BANK

40101(d) Grid Resilience
Build America, Buy America (BABA) & Davis Bacon (DBA)
Compliance Training

September 18, 2025



Agenda:

- Part I: BABA
 - General Information
 - Subrecipient Requirements
- Part II: DBA
 - General Information
 - Subrecipient Requirements



Training Purpose:

- Understand when BABA and DBA apply to your project & contracts
- Know what documentation to collect, submit, & retain for BABA and DBA



Part I: Build America, Buy America Act (BABA)

Subpart A. What is BABA
Subpart B. Subrecipient Requirements
Subpart C. BABA Details

Part I.A. What is BABA?



The <u>Build America</u>, <u>Buy America Act</u> (<u>BABA</u>), enacted as part of the <u>Infrastructure</u> <u>Investment and Jobs Act</u> (<u>IIJA</u>) in 2021, established a domestic content procurement preference for all federal financial assistance obligated for infrastructure projects after May 14, 2022.

Goal: To bolster America's industrial base, protect national security, and support high-

paying jobs.







BABA Applicability & General Principles



Who is covered:

Prime Recipients:

- Comply
- Flow down BABA requirements to their subrecipients/contractors



Subrecipients

- o Comply
- Flow down BABA requirements to their contractors/subcontractors

What is covered:

Articles/materials consumed in, incorporated into, or permanently affixed to U.S. infrastructure

- 3 categories:
 - 1. iron or steel products
 - 2. manufactured products
 - 3. construction materials

All iron, steel, manufactured goods, and construction materials used in a Federally-funded "infrastructure project" must be manufactured domestically.

Not covered: tools/equipment removed at completion; furnishings not integral; §70917(c) materials (cement, aggregates, binding agents)

Part I.B. Subrecipient Requirements



Non-BABA compliant equipment/supplies purchased by the subrecipient is not an eligible project expense - IFA/DOE will not reimburse such expense.

BABA Preference applies to the <u>Total projects cost</u> - both:

- Federal share and
- Cost share

Non-BABA compliant equipment can become eligible cost if:

- BABA waiver obtained from DOE first (before purchasing)
- Use of the <u>2023 General Applicability BABA waiver</u> is approved by DOE

What that means for subrecipients:

- Check before procuring/contracting (RFPs and quotes)
- Get DOE waiver before procuring
- Report and submit BABA certificates

What Subrecipients Must Do



Contract	Classify	Collect Certs	Document	Report
Flow BABA into all infrastructure contracts and subawards. Ensure suppliers and manufacturers can comply.	Classify items in ONE of the three categories:	Obtain manufacturer/supp lier certifications for each covered item (flow down to all subs, contractors and vendors).	Document any "not subject" determinations (tools/equipment) and report to IFA.	Report items class and certification to IFA. If compliance cannot be met, coordinate with IFA on a waiver path or determine project viability as early as possible.

^{*} IFA must keep certifications with the award/project files for ≥ 3 years after submission of final financial report, and be able to produce them upon request from DOE, auditors or Office of Inspector General.

BABA Best Practices



Maintaining accurate and detailed documentation is critical for ensuring BABA compliance

- Determine Supplier Compliance Early
- Work closely with manufacturers who can provide clear documentation and guidance.
- Certifications: Keep records of all certifications from manufacturers verifying compliance with BABA requirements.

- Cost Breakdown: Maintain a detailed costed bill of materials to prove domestic content percentages.
- Audit Preparation: Organize and store records systematically to facilitate quick and easy access during inspections or audits.
- Periodically review documentation to ensure it remains current with the latest guidelines.

BABA Reporting



All equipment/supplies purchased that is subject to BABA Preference must have a manufacturer's BABA Compliance Certificate.

Subrecipient will submit BABA Certificate to IFA:

- monthly or ASAP when requesting reimbursement and reporting expenses, the invoices/receipts for equipment/supplies must include BABA compliance certificate
 - even when purchase is reported as a cost match

Submit BABA certificate through Amplifund platform

• in the Expense logging function, upload Certificate as an attachment to your expense

Record BABA compliance status in your:

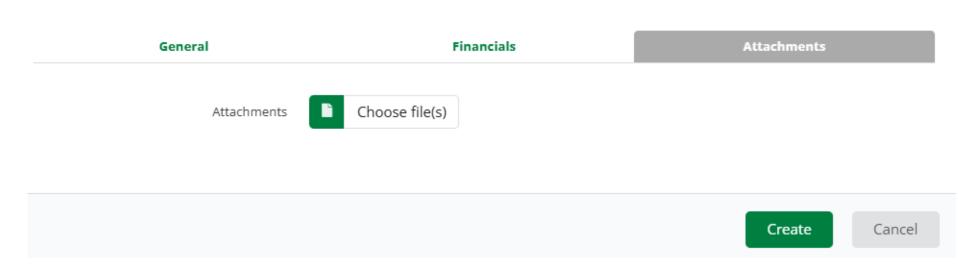
- Project Management Plans
- Quarterly Progress Reports

Submit BABA Certs in Amplifund



When submitting expenses:

Add Expense



Add any supporting documentation under the "attachments" tab.

BABA Equipment/Supplies Tracking



NOTE! BABA COMPLIANCE:									
BABA Compliance	Total \$\$		Is under 5% and I under \$1,000,000?	Need BABA Waiver?					
Total Equipment+ Supplies Cost	\$ 1,516,150								
BABA Compliant quipment	\$ 1,458,750	96.2%							
Non-BABA Compliant Equipment	\$ 57,400.00	3.8%		Select from list: 1) Yes 2) Qualify for General Waiver					
							BABA Compliance		
Equipment / Supplies Description	# units	Price per unit	Total Value	Budget Category	Purpose	Projected Procurement timeline	BABA Complia nt	(Source on Data)	Non-BABA Compliant Equipment cost
69kV Circuit Breaker	4	\$60,500	\$ 242,000	Equipment Supplies Contractual	enhanced safety and reliability	2/1/2026-11/1/2028	Yes	Confirmed by vendor Prior Experience Have vendor BABA certificate No	
138kV Circuit Breaker	5	\$200,000	\$ 1,000,000		Replacement of aging OCBs, providing improved fault-	2/1/2026-11/1/2028	Yes		
Three-Phase Recloser	3	\$30,000	\$ 124,750		Necessary to automate feeder and lateral circuit	2/1/2026-11/1/2028	Yes		
Compact Modular Reclosers - Singe-Phase	1	\$7,000				2/1/2026-11/1/2028	No		\$ 7,000
Compact Modular Reclosers - Three-Phase	1	\$20,000			Provides sectionalizing capabilities for three phase circuits,	2/1/2026-11/1/2028	No		\$ 50,400
Vault-Mounted Switch	4	\$23,000	\$ 92,000		Critical for automating fault isolation in underground	2/1/2026-11/1/2028	Yes		
TOTAL			\$ 1,516,150		\$ 1,516,150.00				\$ 57,400.00

Before Purchasing Equipment/Supplies



Subrecipient must check with the vendor if the BABA compliance certificate is available

When getting quotes for your initial budget:

- discuss with your vendor if the equipment/supplies are BABA compliant and if the BABA certificate
 is available
- discuss with your contractor that is purchasing equipment/supplies for you

When issuing RFPs, soliciting bids:

require confirmation that the equipment/supplies are BABA compliant (include in RFPs)

When signing contracts:

- include BABA compliance requirements in your agreements with contractors that purchase equipment/supplies for the project
- include BABA compliance requirements in your agreements with equipment/supplies manufacturers

Part I.C. BABA Details



Per Section 70914 of the IIJA an Agency may not obligate funds for an "infrastructure project" unless all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States or the Agency applies a waiver to the domestic content procurement preference requirement.

US DOE BABA Guidance and Resources:

- DOE's Build America, Buy America webpage
- DOE Buy America Requirement Waiver Requests page
- Guidance on Submission of a BABA Waiver
- BABA Waiver Request Form

What is "Infrastructure Project"



An **infrastructure project** means any activity related to the <u>construction</u>, <u>alteration</u>, <u>maintenance</u>, or <u>repair</u> of <u>public infrastructure</u> regardless of whether infrastructure is the primary purpose of the project.

NOTE: The term "infrastructure" is interpreted broadly and may include privately owned or operated projects that serve a public function

Includes any structures, facilities, and equipment that generate, transport, and distribute energy - including EV charging

SEC. 70912(5) INFRASTRUCTURE

The term "infrastructure" includes, at a minimum, the structures, facilities, and equipment for, in the United States

- (A) roads, highways, and bridges;
- (B) public transportation;
- (C) dams, ports, harbors, and other maritime facilities;
- (D) intercity passenger and freight railroads;
- (E) freight and intermodal facilities;
- (F) airports;
- (G) water systems, including drinking water and wastewater systems;
- (H) electrical transmission facilities and systems;
- (I) utilities;
- (J) broadband infrastructure; and
- (K) buildings and real property.

SEC. 70912(7) PROJECT.

The term "project" means the **construction**, **alteration**, **maintenance** or **repair** of infrastructure in the United States.

What items are covered



I. IRON OR STEEL PRODUCTS

Means articles, materials, or supplies that consist wholly or **predominantly** of iron or steel or a combination of both

iron/steel content costs >50% all component costs <u>2 CFR 184</u>

II. MANUFACTURED PRODUCTS

Means articles, materials, or supplies that have been

- Processed into a specific form and shape; or
- Combined with other articles, materials, or supplies to create a product with different properties than the individual articles, materials, or supplies.

III.CONSTRUCTION MATERIALS

Minor additions of articles, materials, supplies, or binding agents to a construction material do not change the categorization of the construction material

Means articles, materials, or supplies that consist of only one of the items listed in <u>2</u> <u>CFR 184.3</u>:

- Non-ferrous metals
- 2. Plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables)
- 3. Glass (including optic glass)
- 4. Fiber optic cable (including drop cable)
- 5. Optical fiber
- 6. Lumber
- 7. Engineered wood
- 8. Drywall

To the extent one of the listed items contains as inputs other listed items, it is nonetheless a construction material.

"Produced in the US" (Sec.70912(6)):



I. IRON OR STEEL PRODUCTS

All manufacturing processes, from the initial melting stage through the application of coatings, occurred in the USA

II. MANUFACTURED PRODUCTS

- Product was manufactured in the U.S. +
- Cost of the components of the product that are mined, produced, or manufactured in the U.S. is >55% of the total cost of all components of the product component calculation

III.CONSTRUCTION MATERIALS

All manufacturing processes for the construction material occurred in the U.S.

Quick rule of thumb

- If your item is basically just one of the eight things (with only minor additives), treat it as a **construction material**.
- If it's a mix of many parts or components (beyond minor additives), it's probably a **manufactured product**, not a construction material.

BABA does NOT apply to:



"Sec. 70917(c) materials":

- Cement/cementitious materials;
- aggregates;
- aggregate binders/additives.

See 2 CFR 184 for more details.

Nuance: if Sec. 70917(c) materials are **inputs to a manufactured product** (e.g., concrete pipe, precast concrete), apply the "manufactured product" rule to the product, not to the § 70917(c) inputs; the inputs themselves don't carry an independent BABA test. OMB Guidance

OTHER:

- Non-infrastructure expenditures
- Equipment and furnishings used at/within the project but **not permanently affixed** to and **not** an integral part of the infrastructure (e.g. movable chairs, desks, and portable computer equipment)
- Tools, equipment, and supplies brought to the construction site, not permanently incorporated, and removed at/before completion of the infrastructure project (e.g. temporary scaffolding)

BABA Waivers



If your equipment/supplies are not BABA compliant, IFA must obtain a BABA Waiver from DOE before you can procure such equipment.

2 options:

Use 2023 General Applicability Waiver:

- submit to IFA this <u>FORM</u> if any of these apply to your project:
 - Small Grants: your project TOTAL budget is awards ≤ \$250,000 (federal + cost match)
 - De Minimis: your non-compliant products are
 ≤ 5% of total of all BABA covered
 equipment/supplies AND ≤ \$1,000,000
 - Minor Components: All minor components of your iron and steel products are ≤ 5% of the total material cost of the iron or steel product subject to BABA

BABA Waiver Request

- submit to IFA a waiver request following these <u>INSTRUCTIONS</u>
- check <u>DOE waivers examples</u>
- use this <u>FORM</u> as guidance

Equipment vs Supplies



If something is "consumed" in the process/project it falls under "Supplies"

Rule of thumb:

- **Supplies**: if it is "consumed" during the project or used to build something bigger (e.g. power lines, poles, sensors, etc. are "consumed" when installed on the grid as the components of the electric grid grid is the final product)
- **Equipment**: if it's maxed out for what it is and is not "consumed" as part of building something else (e.g. a vehicle).



Part II: Davis Bacon Act (DBA)

Subpart A. What is DBA
Subpart B. Subrecipient Requirements
Subpart C. DBA Details

Part II.A. What is DBA



All projects funded, in whole or in part, by the IIJA that involve construction, alteration or repair are required to follow Davis-Bacon Act (DBA) standards (Section 41101 IIJA).

DBA Goal: Ensure that federally funded projects prioritize workers and protect communities by upholding local wage and labor standards.

DOE DBA Resources:

- DOE DBA homepage
- DOE Ensuring Prevailing Wages: A Closer Look at the Davis-Bacon Act
- DOE LCPtracker Guidance videos
- US DOL Webinar on IIJA and Davis-Bacon Act

DBA Applicability & General Principles



WHO:

- Prime Recipients:
 - Comply
 - Flow down DBA requirements to their subrecipients/contractors
 - Subrecipients
 - Comply
 - Flow down DBA requirements to their contractors/subcontractors



WHAT (required):

- Workers performing construction,
 alteration, or repair on covered projects
 must be paid at least the prevailing wages
- Payment of local prevailing wages (and fringes) by classification.
- Weekly certified payrolls + Statement of Compliance; proper apprentice ratios/registrations; conformance requests when needed
- Semiannual reporting

Part II. B. Subrecipient Requirements



- Determine DBA covered job positions in your project
 - including your contractors
- Flow down DBA requirements to contractors/subcontractors
- Log in/upload certified payroll into LCPTracker:
 - weekly
 - for each covered position (inhouse or contractor)
- File information with IFA for semi-annual reports in April and October
- Keep records

LCPTracker provides weekly wage compliance reviews and stores documents

IFA will coordinate with the subrecipients on the LCPTracker registration and uploading employee and payroll data

Subrecipient TO DO list:



- Insert DBA clauses into all covered contracts/subcontracts
- 2. Verify correct wage determinations, including fringe benefits, and classifications before work starts
- Collect/review weekly certified payrolls; correct underpayments promptly
- 4. Track apprenticeship (registrations and ratios)
- 5. Retain payrolls/basic records for \geq 3 years after final financial report (IL requires 6 years)
- 6. Subrecipients/contractors submit certified payroll weekly in LCPTracker within 7 days of payment date.
- 7. Post the Davis Bacon poster and applicable wage determination at the work site.

Part II. C. DBA Details



Wage Determinations

Contractors must pay <u>laborers and</u> <u>mechanics</u> working on the <u>site of the work</u> at least the locally prevailing wages (including fringe benefits), listed in the Davis-Bacon wage determination applicable to the contract, for the work performed.

Forepersons or supervisors that perform construction work and devote more than 20% of their time as a laborer or mechanic are treated, for labor standards purposes, as "laborers" or "mechanics" for their time spent working as a laborer or mechanic.

Key Definitions from <u>Title 29 § 5.2</u>:

"Laborers or mechanics" include workers whose duties are manual or physical in nature, as distinguished from mental or managerial. The term "laborer" or "mechanic" includes apprentices, helpers, and, in the case of contracts subject to the Contract Work Hours and Safety Standards Act, watch persons or guards.

"Site of the work" includes all of the following:

- Primary construction site(s)
- Secondary construction site(s) where significant/dedicated construction work occurs
- Adjacent dedicated support sites

Exclusions: Persons whose duties are primarily **administrative**, **managerial**, or **clerical** are **NOT** laborers or mechanics; and they are not covered by DBA's prevailing wage requirements.

What are the Prevailing Wages

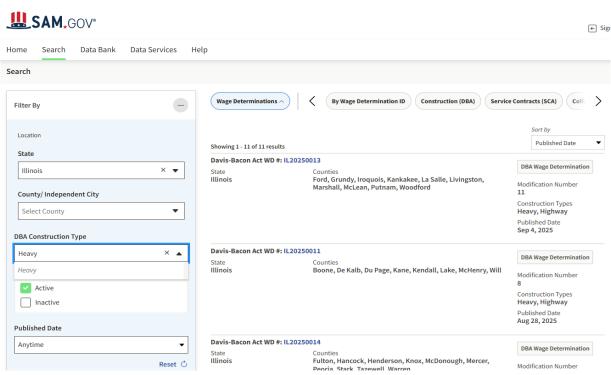


Prevailing wages are the **average wage and benefits** paid to similarly employed workers in a **specific region**. Recipients and subrecipients awarded federal funds for construction, alteration, or repair projects are required to pay workers at least a prevailing wage, <u>set by the U.S. Department of Labor</u>, on a weekly basis.

Serch wage determinations at SAM.gov:

- by Wage Determination ID
- by state/county
- by <u>construction type</u>

Heavy: Heavy construction category includes those projects that are not properly classified as "residential," "building," or "highway" (e.g transmission lines, refineries (other than buildings), pipelines, dams (including pumped hydro), and railways or subways).



DBA vs Illinois Prevailing Wages



As of July 1, 2025, federal construction projects must also comply with the rates under the Illinois Prevailing Wage Act (820 ILCS 130/2)

What do you do:
You must compare Federal DOL rate vs Illinois rate
and pay the greater one
View Illinois Prevailing Wage

View Illinois Prevailing Wage
Rates



"Public works" also includes all federal construction projects administered or controlled by a public body if the prevailing rate of wages is equal to or greater than the prevailing wage determination by the United States Secretary of Labor for the same locality for the same type of construction used to classify the federal construction project. (820 ILCS 130/2 as amendments by P.A. 104-0160 (HB1189), signed into law 8/14/25, effective 7/1/25)





Q&A



Thank You!

If you have any other questions, please reach out to us at:

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