

New Jersey
Office of Broadband Connectivity

Broadband Equity, Access, and Deployment
Program
NJ BEAD



BABA Compliance Guidance

June 30, 2025

Disclaimer

This information is provided as guidance to assist subrecipients in understanding Build America, Buy America (BABA) compliance under the BEAD Program. It is subject to change based on updates from the National Telecommunications and Information Administration (NTIA). In the event of any inconsistencies between this document and NTIA-issued guidance, NTIA guidance takes precedence. Subrecipients are encouraged to regularly review official NTIA resources and consult with the New Jersey Office of Broadband Connectivity for clarification.

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What is BABA?

The Build America Buy America Act (BABA), enacted as part of the Infrastructure Investment and Jobs Act on November 15, 2021, established a domestic content procurement preference for all federal financial assistance obligated for infrastructure projects after May 14, 2022. It prioritizes domestic manufacturing, establishing a general rule that requires all iron, steel, manufactured products, and construction materials used in federally funded infrastructure projects to be produced in the U.S.

- **Iron and Steel:** All manufacturing processes, from initial melting to the application of coatings, must occur in the U.S.
- **Manufactured Products:** The product must be manufactured in the U.S., and at least 55% of the total cost of its components must be sourced domestically.
- **Construction Materials:** All manufacturing processes for these materials must take place in the U.S.

Does BABA apply to BEAD?

Yes. The National Telecommunications and Information Administration's (NTIA) Broadband Equity, Access, and Deployment (BEAD) Program is subject to BABA.¹ The Department of Commerce (DOC) clarified that for the purposes of the BEAD Program, "broadband infrastructure extends to the device that terminates service to the location served."²

Requirements:

- BABA mandates that certain equipment used in BEAD-funded broadband projects must be produced in the U.S.
- Manufacturers can voluntarily self-certify their compliance with BABA requirements, and the NTIA maintains a list of self-certified manufacturers.³
- Subgrantees must report on the use of waived electronics and maintain certification letters for equipment requiring domestic production.

BABA Waivers for bead

- BABA rules apply as written, unless the DOC issues a waiver.
- The DOC has issued four waivers that apply to BEAD. ☐These waivers aim to ensure timely broadband deployment while promoting domestic production where feasible.
- These waivers are explained briefly below. Please refer to the NTIA documents for more detailed information.

¹ https://broadbandusa.ntia.doc.gov/sites/default/files/2024-07/BABA_Compliance.pdf

² <https://www.commerce.gov/sites/default/files/2024-02/BABA%20FAQs%202.pdf>

³ https://www.commerce.gov/sites/default/files/2024-07/BABA_Self_Certification_List.PDF

What is the 2024 bead final waiver?

The NTIA's 2024 BEAD Final Waiver was designed to address challenges in meeting the BABA requirements for the BEAD Program⁴: This final waiver is a limited waiver⁵ for certain equipment, allowing the use of non-domestic products when domestic alternatives are unavailable.

Purpose: The waiver seeks to balance the goals of promoting domestic manufacturing with the urgent need to expand broadband access across the U.S., particularly in underserved and unserved areas.

Scope: The limited, five-year general applicability, non-availability waiver applies to certain manufactured products and construction materials, such as fiber optic cables and electronics, where U.S.-made alternatives are not sufficiently available. However, there are certain exceptions. The DOC waives all BABA requirements for electronics except for the following:

- Optical Line Terminals (OLTs) and Remote Optical Line Terminals.
- OLT Line Cards.
- Optical Pluggables.
- Standalone ONTs and ONUs.

For these categories, specific manufacturing activities, such as printed circuit board assembly, software integration, assembly, testing, quality assurance, and packaging, must be performed in the U.S.

Source of Funds: All products, construction materials, and iron/steel used in BEAD-funded broadband projects must comply with BABA, unless they follow under the limited waiver⁶. This is true regardless of whether the item is purchased with BEAD funds, matching funds, or additional private capital.

Duration: The waiver is valid for five years, starting from February 22, 2024.

Implementation: States and territories are encouraged to streamline processes and accelerate construction projects under the BEAD Program. NTIA has provided guidance and templates to assist eligible entities in submitting quality proposals.

What is the DOC de minimis exception?

The DOC has decided that waivers for minor (“de minimus”) infrastructure purchases, small grants, and minor components of iron and steel products are in the public interest. This will help award recipients focus on major project components, avoid delays, provide economic opportunities, and support timely development of critical public infrastructure.

The DOC is establishing the following targeted and limited waivers⁷:

1. De Minimus Waiver: A waiver for infrastructure project purchases that are otherwise covered, amounting to up to 5 percent of the total applicable project costs or up to

⁴ The “de minimus” waiver may not be applied to the four categories of electronics which are excluded from the BABA Limited Waiver

⁵ <https://www.commerce.gov/sites/default/files/2024-02/BABA%20Waiver%20Signed.pdf>

⁶ *ibid*

⁷ <https://www.commerce.gov/sites/default/files/2023-05/De%20Minimis%20Waiver.pdf>

\$1,000,000. When the total purchases of materials by Federal financial assistance recipients reach 5 percent of applicable project costs or \$1,000,000, whichever is lower, all remaining project purchases must adhere to the Buy America preference (including iron, steel, manufactured products, and construction materials).

2. Small Grants Waiver: applicable to federal financial assistance awards of \$250,000 or less, enables manufacturer participation in smaller federal projects with reduced compliance burdens
3. Minor Deviations Waiver: Allows minor deviations for small components within iron and steel products. It permits recipients of department Federal financial assistance to use non-domestic minor components that make up no more than 5% of the total material cost of otherwise domestically produced iron and steel products.

What does BABA mean for you?

Subrecipients participating in BEAD are responsible for adhering to such as BABA. The NTIA has outlined specific reporting requirements for subrecipients under the BABA provisions of the BEAD Program.⁸

Key Action Items:

- Familiarize yourself with the equipment that must be made in the USA
- Refer to NTIA materials for the most recent guidance
- Collect self-certification letters from your manufacturers (Appendix A)
- Prepare and submit semi-annual reports to the NJ OBC

What Must be reported:

- BABA-Compliant Products: Include product descriptions, origins, and certifications.
- Waived Products: Subrecipients must report on all waived electronics and materials, including the use, justification for the waiver, and sourcing attempts.

Waiver Justification: Reports must provide detailed evidence of good-faith efforts to source domestic products before using waived items. This ensures transparency and accountability in procurement.

⁸ https://broadbandusa.ntia.gov/sites/default/files/2024-07/BABA_Compliance.pdf


Appendix A – Sample Manufacturer Certification Letter

Key Elements

Equipment Information

MANUFACTURER CERTIFICATION

BABA Domestic Preference Requirement reference



July 1, 2024
USA Telecom Company
1731 Foreside Drive
Falmouth, ME 04050

MANUFACTURER CERTIFICATION

Factory Company
100 Maine Road
Portland, ME 04101
+1-207-773-1234

Subject: Build America Buy America Certification [for project name and location if known]
Manufacturer Name: Factory Company (Portland, ME)

To Whom It May Concern:

I, (company representative), hereby certify that the following products and/or materials are in full compliance with the Build America Buy America (BABA) requirements and associated waiver for the Broadband Equity Access and Deployment Program (BEAD) as mandated in the Infrastructure Investment and Jobs Act (IIJA) Pub. L. No. 117-58, §§ 70901-52 and by the U.S. Department of Commerce.

Construction Materials and/or Manufactured Products:

Product Name	Product Description	Quantity

The above listed materials and products were manufactured at the following location(s):

- City, State

If any of the above compliance statements change, we will immediately notify the BEAD subrecipient.

Signature of Authorized Company Representative:

X Jane Doe
Jane Doe
Product Manager, Authorized Representative
Factory Company
Email
Phone

July 1, 2024
Date

Signature of Authorized Company Representative