



CZM Habitat Protection and Restoration Bipartisan Infrastructure Law (BIL) Project Funding Program

Build America, Buy America Act (BABA Act)

Information from NOAA's 2022 CZM Habitat Protection and Restoration BIL NOFO

REQUIRED USE OF AMERICAN IRON, STEEL, MANUFACTURED PRODUCTS, AND CONSTRUCTION MATERIALS.

If applicable, and pursuant to the Infrastructure Investment and Jobs Act ("IIJA"), Pub.L. No. 117-58, which includes the Build America, Buy American (BABA) Act, Pub. L. No. 117-58, §§ 70901-52 and OMB M-22-11, recipients of an award of Federal financial assistance from the Department of Commerce (DOC)- including funding from the CZM Habitat Protection and Restoration BIL Project Funding- are hereby notified that none of the funds provided under this award may be used for a project for infrastructure unless all:

- 1. 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 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; and
- 3. CONSTRUCTION MATERIALS ARE MANUFACTURED IN THE UNITED STATES—**
this means that all manufacturing processes for the construction material occurred in the United States.

The Buy America preference only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project. Nor does a Buy America preference apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project but are not an integral part of the structure or permanently affixed to the infrastructure project.

DEFINITIONS

CONSTRUCTION MATERIALS: Includes an article, material, or supply—other than an item of primarily iron or steel; a manufactured product; cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives²—that is or consists primarily of: non-ferrous metals; plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables); glass (including optic glass); lumber; or drywall.

DOMESTIC CONTENT PROCUREMENT PREFERENCE: Means all iron and steel used in the project are produced in the United States; the manufactured products used in the project are produced in the United States; or the construction materials used in the project are produced in the US.

INFRASTRUCTURE: Includes, at a minimum, the structures, facilities, and equipment for, in the United States, roads, highways, and bridges; public transportation; dams, ports, harbors, and other maritime facilities; intercity passenger and freight railroads; freight and intermodal facilities; airports; water systems, including drinking water and wastewater systems; electrical transmission facilities and systems; utilities; broadband infrastructure; and buildings and real property. Infrastructure includes facilities that generate, transport, and distribute energy.

PROJECT: Means the construction, alteration, maintenance, or repair of infrastructure in the United States. Excludes cement and cementitious materials, aggregates such as stone, sand, or gravel, or aggregate binding agents or additives. ² IIJA, § 70917(c)(1).

Further Guidance in CFR: 2 CFR 184 and 2 CFR 200 are pending by the Federal Government. If you have questions about applicability for your project or DOC's waiver process, please contact OCMP to discuss. DOC waiver info is available at <https://www.commerce.gov/oam/build-america-buy-america>.

Claire Fiegner, Coastal Habitat Projects Coordinator
Oregon Coastal Management Program at Department of Land Conservation and Development
635 Capitol St, NE Ste 150
Salem, OR 97301
971-301-3512
email: claire.fiegner@dlcd.oregon.gov
www.oregon.gov/lcd/OCMP/Pages/Grants.aspx

Financial assistance for this program provided by the Coastal Zone Management Act of 1972, as amended, administered by the Office for Coastal Management, National Oceanic and Atmospheric Administration.