

Sample Contract Clause and Bid Language*

In addition to the ARC BABA term and condition (Section 4.1), include language like the following in specifications, solicitations, bid documents, contracts, subcontracts, and purchase orders so BABA flows down to all parties. Adapt to your project and legal review.

Sample BABA compliance clause

I Build America, Buy America

This project is funded in whole or in part by an award from the Appalachian Regional Commission (ARC) and is subject to the Build America, Buy America Act (Public Law 117-58, sections 70901-70927) and the ARC BABA guidance. The Contractor agrees that all iron, steel, manufactured products, and construction materials used in the project must be produced in the United States, unless a waiver has been issued by ARC and applies to the item.

Definitions of "produced in the United States" for each category are incorporated by reference from the [ARC BABA guidance](#). The Contractor shall flow down these requirements to all subcontractors, suppliers, and manufacturers, shall provide certifications of compliance in the forms required by the project owner, and shall maintain and produce upon request documentation demonstrating compliance, including country of origin and place of manufacture.

The Contractor shall not incorporate any noncompliant iron, steel, manufactured product, or construction material into the project without a written ARC waiver covering that item. Failure to comply may result in rejection of materials, cost disallowance, and other remedies under the contract and applicable law.

Sample bid certification language

"By submitting this bid, the bidder certifies that it will comply with the Build America, Buy America requirements set forth in the solicitation, will flow those requirements down to all subcontractors and suppliers, and will provide the required certifications and documentation demonstrating that all covered iron, steel, manufactured products, and construction materials are produced in the United States or covered by an applicable ARC waiver."

* Consult your RSBA on how to best adapt this certificate to your specific project.