

# Buy America(n) (BAA)

## Build America, Buy America (BABA)

### GUIDANCE FOR PROJECTS UTILIZING FEDERAL FUNDS

Many federally funded projects include provisions that require domestic products. These requirements typically apply to projects utilizing U.S. federal funds or grants but may also apply to state or municipal funded projects.

The process described below will help ensure that products provided by Acuity Brands are manufactured with the most competitive price, delivery and meet the requirements for certain federal procurement regulations.

#### 1) Determine which government agency is distributing the funds.

The contractor or agent must fill out the [Acuity Brands Buy America\(n\) / Build America, Buy America checklist](#) so Acuity Brands knows which government agency distributing funds. The products Acuity Brands supplies to a project are dependent on the government agency funding the project and whether Buy America(n) (BAA) or Build America, Buy America (BABA) is specified so we can apply the proper rules.

Federally funded infrastructure projects may reference a [Build America, Buy America \(BABA\)](#) preference for domestic products. BABA regulations were finalized on August 23, 2023 by the Made In America Office. FHWA and FTA agencies are utilizing their BAA rules for BABA compliance.

Acuity has reviewed our products that are being built in the US based on the definitions of the final guidance that were finalized by the MAIO office by product family. It was determined through analysis of bills of materials that our finished products produced in our US factories meet the cost of components test under BABA.

Acuity Brands' products with the BAA designation are manufactured in the U.S. and will meet the BABA defined cost of components test. The contractor may consider foreign products if domestic products are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality but must apply for a non-availability waiver.

#### 2) Determine if trade agreements apply (BAA only). BABA does not recognize trade agreements. [\(See number 4 for BABA.\)](#)

The Trade Agreement Act (TAA) only apply where the Government Entity or Central Government Entity directly procures or purchases goods, services or construction work. Trade agreements might apply where the government entity is procuring the goods, services, or construction work for its own benefit or use. TAA does not apply where a state or local government is acquiring goods for a transportation project funded in whole or in part by a grant administered by a DOT agency (or other Department of Transportation entity) or through similar "federal assistance" as an example.

However, when trade agreements apply, most Acuity products can be supplied and treated the same as a domestic U.S. product for purposes of applying U.S. procurement laws. **This ensures supplying products with the most competitive pricing and shortest lead time.** Contact the contractor for the

federal project to determine the contract information or identify the “CFDA Number” or “CAGE Code” to validate the project contract value at [www.beta.sam.gov](http://www.beta.sam.gov).

Trade agreements will apply to a BAA project if the total value of the contract meets or exceeds the following thresholds for 2022-2023, subject to biannual updates.<sup>1</sup>

Trade Agreement	Construction Contract Threshold	Goods and Services Contract Threshold
U.S. Mexico Canada Agreement (USMCA) for Central Government Entities <sup>2</sup> <i>Applies to products manufactured in Mexico.</i> <i>Does not apply to products with Canada country of origin.</i>	\$13,296,489	\$102,280
World Trade Organization (WTO) – Agreement on Government Procurement (GPA) for Central Government Entities <sup>3</sup> <i>Applies to products manufactured in Canada and other parties to WTO GPA<sup>4</sup></i> <i>Does not apply to products with Mexico country of origin.</i>	\$6,708,000	\$174,000

*Note: Trade agreements may not be recognized for some state or municipal product procurement. For these projects, validate the applicability of trade agreements with the contractor prior to ordering.*

### 3) If trade agreements do not apply for a BAA project, select products with the BAA designation for U.S. assembly.

The following U.S. federal procurement regulations require manufactured products that are “substantially transformed” in the U.S. Acuity Brands products are considered Commercial Off-the-Shelf (COTS) products for federal procurement (FAR/DFARS), which waives the domestic component test. Therefore, our end use products may include foreign components or materials. [See Federal Domestic Procurement Regulation chart on next page.](#)

Acuity Brands products identified with “BAA” nomenclature designates a product that is substantially transformed in the U.S. Look for the Acuity Brands BAA logo or contact product support to identify domestic production options.

Steel or iron poles often have more stringent domestic material and manufacturing requirements under federal procurement regulations. Typically, steel or iron poles must be manufactured in the U.S. with domestic metals.

<sup>1</sup> United States Trade Representative Thresholds for Government Procurement: <https://ustr.gov/issue-areas/government-procurement/thresholds>

<sup>2</sup> USMCA Central Government Entities listed in U.S. Annex 13-A: [https://ustr.gov/sites/default/files/files/agreements/FTA/USMCA/Text/13\\_Government\\_Procurement.pdf](https://ustr.gov/sites/default/files/files/agreements/FTA/USMCA/Text/13_Government_Procurement.pdf)

<sup>3</sup> WTO GPA Central Government Entities listed in U.S. Annex 1: <https://e-gpa.wto.org/en/Annex/Details?Agreement=GPA113&Party=UnitedStates&AnnexNo=1&ContentCulture=en>

<sup>4</sup> Parties to the GPA are: Armenia, Australia, Canada, the European Union (and its 28 Member States-Austria, Belgium, Bulgaria, Croatia, Czech Republic, Cyprus, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Slovak Republic, Slovenia, Spain, Sweden, and the United Kingdom), Hong Kong China, Iceland, Israel, Japan, the Republic of Korea, Liechtenstein, the Republic of Moldova, Montenegro, the Netherlands with respect to Aruba, New Zealand, Norway, Singapore, Switzerland, Taiwan (Chinese Taipei), Ukraine, United States.

Federal Domestic Procurement Regulation	Compliance of Manufactured Products
Federal Acquisition Regulations (FAR) – <i>Buy American</i> 41 U.S.C 10a-10d §52.225.1 / 52.225.9 / 52.225.21	Manufactured at a U.S. location or BAA option
Defense Federal Acquisition Regulation System (DFARS) – <i>Buy American</i> 48 U.S.C. § 225.225.7000 / 7001	Manufactured at a U.S. location or BAA option
Department of Transportation (DOT) – Federal Transit Authority (FTA) 49 U.S.C §5323(j) or 49 CFR Part 661 – <i>Buy America</i> – Federal Aviation Authority (FAA) 49 U.S.C § 50101 – <i>Buy American</i>	Manufactured at a U.S. location or BAA option
Department of Transportation (DOT) – <i>Buy America</i> – Federal Highway Works Authority (FHWA) 23 U.S.C §313 or 23 CFR 635.410	Manufactured products are waived from the Buy America requirements
Other domestic procurement regulations	Contact Acuity Sales Associate

**4) For Build America, Buy America (BABA) requests, use action chart below.**

Agency	BABA Action
FHWA	Supply any Acuity product (manufactured product waiver in place)
FTA, FAR, DFARS, FAA, FEMA, HUD, EPA, etc.	BAA compliant products only (no TAA)

**5) For all other inquiries or certification letters, contact an Acuity Sales Associate.**

For any other domestic procurement questions or issues, contact Acuity Sales Associate. To assist with your support requirements, you will be asked to provide the [Acuity Brands Buy America\(n\) / Build America, Buy America Checklist](#) or the following information:

- Do trade agreements apply and does the project contract exceed U.S. trade agreement thresholds?
- The federal agency that applies to the project.
- Specific products to be specified or supplied.

**Disclaimer: The information provided herein is for informational purposes only and subject to changes in U.S. trade agreements, federal regulations, or procurement policies. Ultimate responsibility for compliance of any products with domestic procurement regulations for U.S. Federal entities is that of the general contractor or subcontractor to the Federal contract.**