



GDO

GRID DEPLOYMENT OFFICE

Grid Resilience and Innovation Partnerships (GRIP) Program – Critical Compliance Information

Non-Domestic Components; Build America, Buy America; and the Davis-Bacon Act

Colin Meehan

GRIP Program Manager

Emma Stewart

Chief Power Grid Scientist - Idaho National Laboratory

Jody Wootton

*Management & Program Analyst –
DBA & BABA Assurance Program Lead,
Grid Deployment Office*

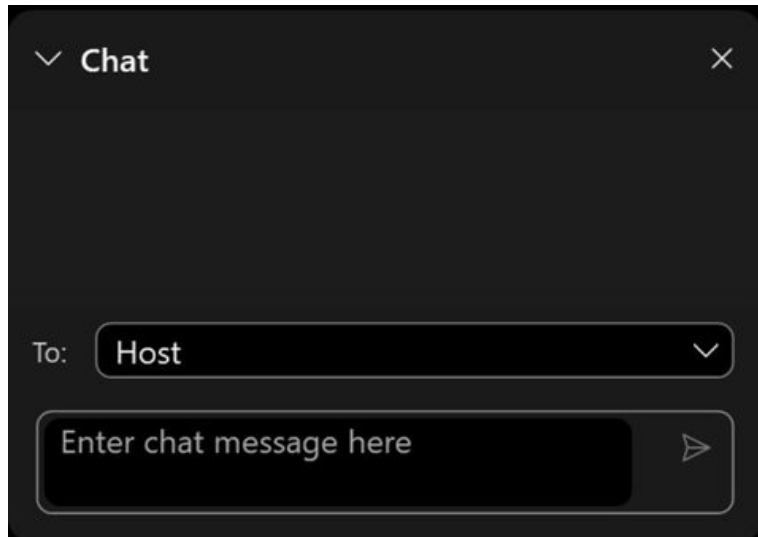
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DE-FOA-0003195



Housekeeping

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A screenshot of a chat window. The window has a dark background and a title bar that says "Chat" with a close button (X) on the right. Below the title bar, there is a "To:" field with a dropdown menu showing "Host". Below that is a text input field with the placeholder text "Enter chat message here" and a send button (right-pointing triangle) on the right.



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For questions regarding the FOA or Full Applications, email FOA3195@netl.doe.gov. Questions will not be accepted through the webinar chat.



Colin Meehan



Program Manager, GRIP,
Grid Deployment Office,
U.S. Department of Energy



Agenda

- ▶ Introduction
- ▶ Navigating Supply Chain Challenges
 - Non-Domestic Content
- ▶ Davis-Bacon Act Compliance
- ▶ Build America, Buy America Compliance
- ▶ Reminders and Next Steps

Find the FOA details
on Exchange:
[https://infrastructure-
exchange.energy.gov](https://infrastructure-exchange.energy.gov)

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Grid Resilience and Innovation Partnerships (GRIP) Program Overview

- ▶ These programs were released as one funding opportunity but provide opportunities for various applications to various entities including states, tribes, utilities, and industry.
 - Topic Area 1- Grid Resilience Grants
 - Topic Area 2- Smart Grid Grants
 - Topic Area 3- Grid Innovation Program

 - ▶ DOE Goals for the GRIP Program
 - 1. Transform the U.S. electric grid at the transmission and distribution levels by increasing resilience in the face of extreme disruptions, enabling data-rich and flexible grid performance, and spurring innovation at all stages of project ideation and execution;
 - 2. Prioritize energy justice as an essential component of infrastructure development by dramatically altering the relationship between energy providers and their communities; and
 - 3. Catalyze and leverage private sector and non-federal public capital for impactful technology and infrastructure deployment.

 - ▶ Concept Papers, the required first step in the application process, were due by Jan. 12, 2024, for all Topic Areas. Applicants must have submitted a compliant Concept Paper by Jan. 12 to be eligible to submit a Full Application.
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Emma Stewart



Chief Power Grid Scientist and Research Strategist,
Idaho National Laboratory,
U.S. Department of Energy



Navigating Supply Chain Challenges

Building Resilient Systems for Electric Grid Modernization

- The main concern revolves around the availability of US-manufactured products for electric grid modernization and navigating the challenges presented by the geopolitical supply chain landscape.
- The Supply Chain for certain products is largely non-domestic
- How do we drive modernization – while appropriately mitigating risk and consequence
- Project design optimization – secure supply chain and criticality of the application to your operation is a primary consideration
- Equipment to be discussed:
 - Electric Vehicles (EVs) + EV Supply Infrastructure
 - Battery Energy Storage Systems (BESS) + management systems
 - Inverters
 - Orchestration software (Distributed Energy Resources Management Systems [DERMS]/Advanced Distribution Management Systems [ADMS])
 - [Critical-and-Emerging-Technologies-List-2024-Update.pdf \(whitehouse.gov\)](#)
- GDO has enlisted INL to develop a component security evaluation and mitigation technical assistance program

See the following sections of the FOA for information on disclosure requirements, domestic content, and related information: IV.D.xxi; IV.I; VI.B; Appendix B; Appendix C.

Best Practices and Considerations for Your Application

Recommended Actions, Not Required

- Purpose of discussion: consideration and evaluation of supply chain choices in application and design
- Consider your risk through consequence-based frameworks (<https://inl.gov/national-security/cie/>)
- Resilience and security can be considered in all topics even if not specific to cybersecurity
- Cyber Plans – Strongly consider sourcing and adequate protections around most consequential control & communications equipment
- Determine what you are allowed to do:
 - Defense-serving entities may have different requirements
 - State and Local guidelines
 - Tax credits for sites with non-domestic content, and Foreign Entities of Concern (FEOC)
- Review National Defense Authorization Act (NDAA) language*
 - FY24 NDAA, Section 154: Prohibition on Availability of Funds for Procurement of Certain Batteries
- Contracting language is important – ensure roles and responsibilities are clear

See the following sections of the FOA for information on FEOCs, disclosure requirements, domestic content, and related information: IV.D.xxi; IV.I; VI.B; Appendix B; Appendix C.

* www.congress.gov/118/plaws/publ31/PLAW-118publ31.pdf



Jody Wootton

Management & Program Analyst,
Grid Deployment Office,
U.S. Department of Energy



Build America, Buy America (BABA)

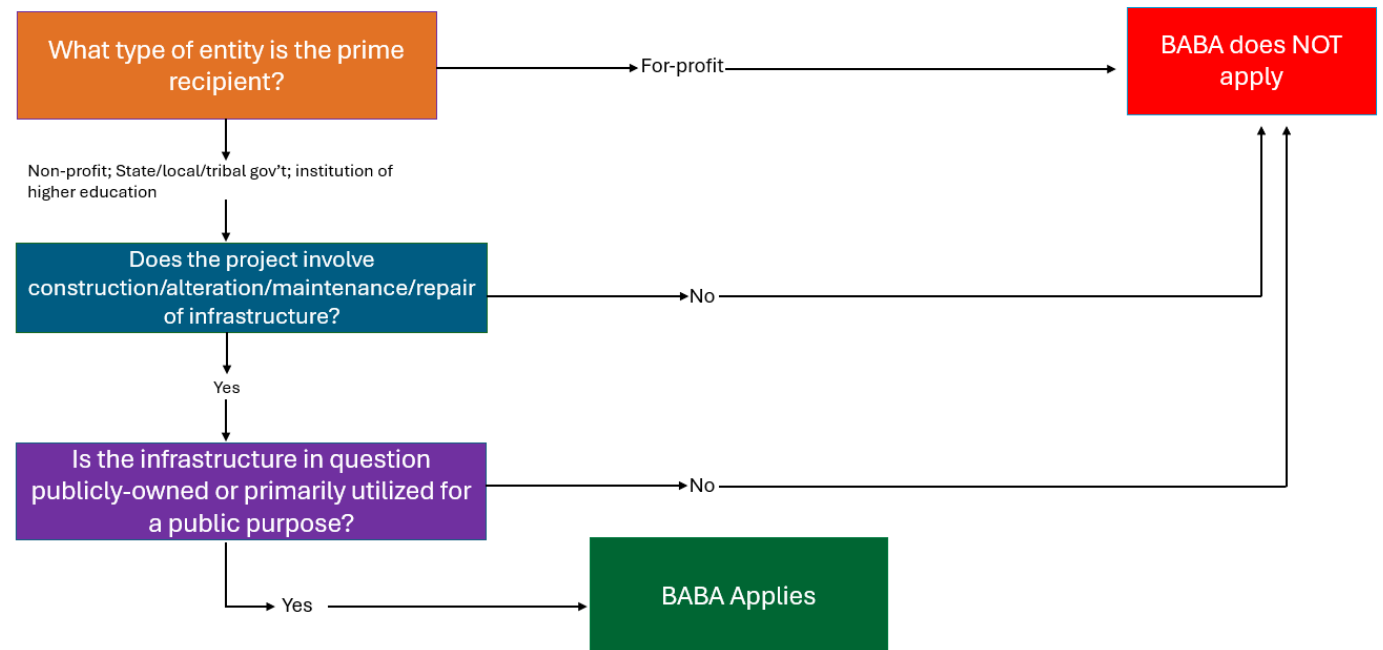
Implementation and Application of BABA

- ▶ On November 15, 2021, the Build America, Buy America (BABA) Act, was enacted under Division G, Title IX of the Infrastructure Investment and Jobs Act (IIJA), Public Law 117–58.
- ▶ OMB amended 2 CFR, subtitle A, chapter I by adding a new part 184. On August 23, 2023, OMB finalized 2 CFR 184 - BUY AMERICA PREFERENCES FOR INFRASTRUCTURE PROJECTS.
- ▶ The Department of Energy will continue to work with OMB's Made in America Office to coordinate implementation and compliance of Buy America Requirements with recipients and other Agencies.
- ▶ DOE BABA waivers (general applicability and project-specific) posted on www.energy.gov/management/doe-buy-america-requirement-waiver-requests



BABA Applicability

- ▶ In accordance with the guidance provided by OMB the Buy America Requirement is applicable to Non-Federal Entity prime recipients that are States, Local Governments, Indian Tribes, Territories, Institutions of Higher Education (IHEs), and Non-Profit Organizations.
- ▶ For-Profit Entities are not included in the definition of Non-Federal Entity when applying the statutory Buy America Requirement to prime recipients of Federal awards.
- ▶ Also, Tribal Consultation is required prior to applying the Buy America Requirement to Indian Tribe prime recipients.
- ▶ This requirement must flow down to all sub-awards, all contracts, subcontracts and purchase orders for work performed under the infrastructure project.



BABA Documentation

- ▶ Prime recipients must maintain certifications or equivalent documentation for proof of compliance that those articles, materials, and supplies that are consumed in, incorporated into, affixed to, or otherwise used in the infrastructure project, not covered by a DOE waiver or exemption, are produced in the United States.
- ▶ The certification or proof of compliance must be provided by the suppliers or manufacturers of the iron, steel, manufactured products and construction materials and flow up from all sub-awardees, contractors and vendors to the prime recipient.
- ▶ Prime Recipients must keep these certifications with the award/project files and be able to produce them upon request from DOE, auditors or Office of Inspector General.
- ▶ The prime recipient is responsible for flowing the Buy America Requirement down to all sub-awards, all contracts, subcontracts, and purchase orders for work performed under the proposed infrastructure project, including to For-Profit Entities when the For-Profit Entity is a sub-recipient or sub-awardee.



BABA Project-Specific Waivers

Items to Consider

- ▶ Requests to waive the application of the Buy America Requirement in an award must be submitted by the Prime Recipient in writing to the DOE Contracting Officer or Grants Officer in accordance with the terms and conditions of the award.
- ▶ Process could take up to 90 days.
- ▶ Public comment period of no less than 15 days.
- ▶ Posted on the Made In America website, www.madeinamerica.gov/ and DOE's website www.energy.gov/management/doe-buy-america-requirement-waiver-requests



Davis-Bacon Act (DBA)

What does the Bipartisan Infrastructure Law say about the Davis-Bacon Act?

- Under Section 41101 of the Bipartisan Infrastructure Law, all laborers and mechanics employed by contractors or subcontractors in the performance of construction, alteration, or repair work on a project assisted in whole or in part by funding made available under the Bipartisan Infrastructure Law must be paid wages at rates not less than those prevailing on similar projects in the locality, as determined by the Secretary of Labor in accordance with the Davis-Bacon Act.

DBA helps ensure that federally funded projects prioritize workers and protect communities by upholding local wage and labor standards.

- That includes the requirement that award recipients pay at least the prevailing wages to workers performing project construction.
- It also includes two regular tracking components – weekly payroll tracking and semiannual reporting – to ensure compliance.



DBA FAQ

Are there any exceptions to the requirement that workers be paid weekly?

- ▶ No. Under Davis-Bacon Act labor standards, covered workers must be paid and certified payrolls must be submitted to DOE weekly. DOE requires that award recipients use a free software unless a waiver is granted. This software, LCPtracker, helps to ensure the payroll submission process is as easy and accessible as possible.

BIL Award Recipients

- ▶ As a requirement of the Davis-Bacon Act (DBA), award recipients must submit weekly, certified payrolls to the U.S. Department of Energy (DOE). This ensures that employers are in compliance with the law by paying applicable workers the required prevailing wage and benefits on a weekly basis.



Responsibilities of Award Recipients Under DBA

Award Recipient must:

- ▶ Incorporate Davis-Bacon wage determinations and clauses into subcontracts and subrecipient awards.
- ▶ Ensure subcontractor and subrecipient compliance with Davis-Bacon labor standards.
- ▶ Review subcontractor and subrecipient certified weekly payrolls for accuracy and compliance.
- ▶ Retain original certified weekly payrolls for three years post-project, available for DOE or DOL review.
- ▶ Perform payroll and job-site reviews, including employee interviews, to assure subcontractor and subrecipient compliance.
- ▶ Display wage determinations and DOL WH-1321 Notice prominently at job sites.
- ▶ Notify the Contracting Officer of all labor standards issues, violations, disputes, DOL investigations, or legal proceedings.
- ▶ Submit Semi-Annual DBA Enforcement Report by April 21 and October 21 annually.



Third-Party Payroll Compliance Software

LCPtracker.com

- ▶ DOE has a contract with LCPtracker to implement an electronic payroll compliance software application for Davis-Bacon Act requirements. This will help ensure timely electronic submission of weekly certified payrolls through this software, in compliance with the Davis-Bacon Act, unless a waiver is granted due to a contractor or subcontractor's inability or limited access to utilize the software. Applicants should indicate their intention to seek a waiver, if applicable.
- ▶ This software is **free to use** for all Bipartisan Infrastructure Law award recipients.
- ▶ LCPtracker allows for certified payroll reports and workforce data to be uploaded and electronically signed any day, any time. LCPtracker currently partners with more than 20 commercially available payroll systems, including ADP and Paychex.



Next Steps and Reminders

APPLICATIONS DUE 5 P.M. ET

Topic Area 1
Grid Resilience Grants (40101(c))
17-Apr-24
Topic Area 2*
Smart Grid Grants (40107)
22-May-24
Topic Area 3
Grid Innovation Program (40103(b))
17-Apr-24

*The due date in Exchange currently reflects the due date for Topic Areas 1 & 3.

Approximately one week later, Exchange will be re-opened for Topic Area 2 applications.

TRAINING

Missed the most recent training webinars? Find slides and recordings online

Community Benefits Plan Training:

www.energy.gov/gdo/events/march-5-community-benefits-plans-training-grid-resilience-and-innovation-partnerships

Concept Papers & Full Application Phase Updates:
www.energy.gov/gdo/events/march-12-grid-resilience-and-innovation-partnerships-grip-program-application-webinar



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Thank you

