

# Build America Buy America

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Mike Dennee, ODOT Construction section

# Background

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On November 15, 2021, President Biden signed into law the Infrastructure Investment and Jobs Act (IIJA), which includes the BABA Act (Pub. L. No. 117-58, Sections 70901-70941).

The older Buy America requirements applied to iron, steel.

BABA expands requirements to include construction materials in construction contracts that include Federal funding.

# Background

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- May 14, 2022—180 days after the enactment of the IIJA—the head of each covered Federal agency shall ensure that “none of the funds made available for a Federal financial assistance program for infrastructure, including each deficient program, may be obligated for a project unless all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States.” A 180-day transitional waiver was approved for USDOT to extend the implementation of BABA to November 10, 2022.

# Background

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## Included in BABA

- Construction materials include 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, and drywall.
- BABA does not apply to temporary items, asphalt products, cement and cementitious products, aggregates, or aggregate additives. The BABA 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.
- Manufactured products are defined as products consisting of at least two construction materials or other constituents that are produced or assembled off the Project Site. The existing 1983 FHWA waiver for manufactured products is being reviewed at the national level, as required by BABA. For now, manufactured products fall under the 1983 FHWA waiver.

# Implementation:

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- Projects with federal funding going to bid after January 1, 2023 (PS&E after October 31, 2022) will include the specification 00160.20(d) Build America Buy America that implements the requirement in contracts. Projects with federal funding during any phase, after the dates above, will be subject to the new BABA requirements. Unlike Buy America (standard specification 00160.20(a)), BABA **DOES NOT ALLOW** for any de minimis amount of foreign construction material to be incorporated into the project.
- Projects that have received construction authorization prior to November 10, 2022, but request additional funding after November 10, 2022, do not have to add the BABA requirements.

# Bid Items List

Sort 0=exempt/NA 1=Iron/Steel 2=Construction 3=Manufacture	Exempt, Temporary, or Not Applicable	Iron and Steel (includes manufactured steel items <sup>1</sup> )	BABA Construction Material	BABA Manufactured Product	Item Number	Item Description
1		560			0560-0105000A	STEEL BOX GIRDER
1					0560-0106000A	TRAPEZOIDAL STEEL BOX GIRDER WITH HAUNCH
1					0560-0107000A	HORIZONTAL CURVED STEEL BOX GIRDER
1					0560-0108000A	STEEL ROLLED BEAM
0	0560-0109000A				0560-0109000A	STRUCTURAL STEEL MAINTENANCE
1		564			0564-0100000A	FALL ARREST SYSTEM
3				565	0565-0100000A	CFRP STRENGTHENING - WET LAYUP SYSTEM
3				566	0566-0100000A	CFRP STRENGTHENING - NEAR SURFACE MOUNTED
2			567		0567-0101000A	TITANIUM SYSTEM, 0.375 INCH DIAMETER
2					0567-0102000A	TITANIUM SYSTEM, 0.500 INCH DIAMETER
2					0567-0103000A	TITANIUM SYSTEM, 0.625 INCH DIAMETER
2					0567-0104000A	TITANIUM SYSTEM, 0.750 INCH DIAMETER
2			0570-0100000K		0570-0100000K	TIMBER AND LUMBER
3				0570-0112000K	0570-0112000K	GLUED LAMINATED TIMBER
1		581			0581-0100000E	BRIDGE DRAINS
1		582			0582-0010000E	BEARING DEVICES, _____
1					0582-0020000E	BEARING DEVICES, _____ INCH WIDE, _____ INCH LONG, _____ INCH THICK
2			583		0583-0201000F	PVC CONDUIT SYSTEM, _____ INCH DIAMETER
2					0583-0202000F	GRC CONDUIT SYSTEM, _____ INCH DIAMETER
2					0583-0203000F	316 SS RMC CONDUIT SYSTEM, _____ INCH DIAMETER
2					0583-0204000F	RTRC CONDUIT SYSTEM, _____ INCH DIAMETER
3				584	0584-0100000F	ELASTOMERIC CONCRETE NOSING
3					0584-0101000K	ELASTOMERIC CONCRETE NOSING MATERIAL FOR REPAIR
3					0584-0102000F	REPAIR ELASTOMERIC CONCRETE NOSING
0	0585-0200100A				0585-0200100A	ASPHALTIC PLUG JOINT SEALS
0	0585-0201100K				0585-0201100K	ASPHALTIC PLUG JOINT SEAL MATERIAL
0	0585-0206100A				0585-0206100A	POURED JOINT SEAL

# Blue Sheets list

Exempt or Not Applicable	Iron and Steel (includes manufactured steel items)?	BABA Construction Material?	BABA Manufactured Product?	Category	Item
				Poles and Pedestals	
	x				Chase Nipple
	x				Pipe Plugs
		x			Pedestal
				Conduit & Appurtenances	
		x			Conduit
		x			Conduit Bushings, PVC
	x				Conduit Bushings, Metal
		x			Conduit Plug
	x				Condulet
			x		Conduit Hub
			x		Expansion Fitting
		x			Pull Line
		x			Underground Warning Tape
				Junction Box	
			x		Junction Boxes
				Cables, Wires, Grounding/Bonding & Appurtenances	
		x			Bond Wire
			x		Ground Rod & Clamp
			x		Control Cable
			x		Industrial Ethernet Cable
			x		Interconnect Cable
			x		TFFN, THWN & XHHW wire
			x		Strain Relief

**ODOT CONSTRUCTION / MATERIALS SECTION  
 QUALIFIED PRODUCTS LIST  
 APPROVED LIST - NO SAMPLES OR TESTS REQUIRED\*  
 QUALIFIED LIST - ADDITIONAL REQUIREMENTS\*\*  
 DECEMBER 2022**

<u>STANDARD SPEC #</u>	<u>CATEGORY</u>	<u>PRODUCT NAME</u>	<u>LOCAL REPRESENTATIVE AND/OR MANUFACTURER</u>	<u>EFFECTIVE DATE</u>	<u>PRODUCT NUMBER</u>	<u>LIST</u>	<u>REMARKS</u>
00538.10	CRACK INJECTION EPOXY	SIKADUR 52	SIKA CORPORATION 800/933-7452 THAD BROWN 425/486-5916 ATLAS SUPPLY 800/806-7952 MASONS SUPPLY 800/537-3407	11/13/08	548	A	AASHTO TYPES I AND IV.
00538.10	CRACK INJECTION, EPOXY	DURAL 452 LV	EUCLID CHEMICAL COMPANY, THE 800/321-7628 DAVE DILLON 206/280-4576 MASONS SUPPLY 800/537-3407	03/17/14	4752	A	
00556.10A	MULTI-LAYER POLYMER CONCRETE OVERLAY EPOXY	CRACKBOND EPOTHANE T3	ADHESIVES TECHNOLOGY CORP. 954/789-4764	08/18/22	5404	Q	CONSTRUCTION MATERIAL CMO REQUIRED
00556.10A	MULTI-LAYER POLYMER CONCRETE OVERLAY EPOXY	EPX50-OVERLAY	E-CHEM, LLC JAMES HIGH 505/217-2121	06/04/15	4654	Q	CONSTRUCTION MATERIAL CMO REQUIRED
00556.10A	MULTI-LAYER POLYMER CONCRETE OVERLAY EPOXY	EPX50-OVERLAY FAST	E-CHEM, LLC JAMES HIGH 505/217-2121	04/18/17	5048	Q	FOR USE AT LOW TEMPERATURES FOLLOW MANUFACTURES RECOMMENDATIONS TEST DECK 2017 CONSTRUCTION MATERIAL CMO REQUIRED
00556.10A	MULTI-LAYER POLYMER CONCRETE OVERLAY EPOXY	FLEXOLITH	EUCLID CHEMICAL COMPANY, THE 800/321-7628 DAVE DILLON 206/280-4576 MASONS SUPPLY 800/537-3407	01/10/08	230	Q	WAS FLEXOLITH 216  CONSTRUCTION MATERIAL CMO REQUIRED
00556.10A	MULTI-LAYER POLYMER CONCRETE OVERLAY EPOXY	PRO-POXY TYPE III DOT	UNITEX BY DAYTON SUPERIOR STEVE HACKWORTH 253/245-0263 WILLIAMS FORM ENG 800/255-0560	06/10/10	1920	Q	CONSTRUCTION MATERIAL CMO REQUIRED
00556.10A	MULTI-LAYER POLYMER CONCRETE OVERLAY EPOXY	PRO-POXY TYPE III DOT LT	DAYTON SUPERIOR/UNITEX CLAY CHRISTIANSEN 801/671-3658	02/13/17	5017	Q	FOR USE AT LOW TEMPERATURES FOLLOW MANUFACTURES RECOMMENDATIONS TEST DECK 2017 CONSTRUCTION MATERIAL CMO REQUIRED
00556.10A	MULTI-LAYER POLYMER CONCRETE OVERLAY EPOXY	SIKADUR 22 LO MOD FS (FAST SET)	SIKA CORPORATION 800/933-7452	04/18/17	5051	Q	FOR USE AT LOW TEMPERATURES FOLLOW MANUFACTURES RECOMMENDATIONS TEST DECK 2017 CONSTRUCTION MATERIAL CMO REQUIRED

\*LIST 'A' = APPROVED. MAY BE USED WITHOUT SAMPLES, TESTING, OR QUALITY COMPLIANCE CERTIFICATIONS. MAY NEED A FIELD INSPECTION REPORT.

\*\*LIST 'Q' = QUALIFIED. USE WITH SAMPLING, TESTING, &/OR QUALITY COMPLIANCE CERTIFICATIONS AS NEEDED. NEEDS A FIELD INSPECTIONS REPORT. CHECK SPECS AND NFTMAG.  
 LIST PUBLISHED BY: ODOT MATERIALS LAB; 800 AIRPORT RD SE; SALEM, OR 97301-4798; (503) 986-3059. PLEASE REPORT ANY PROBLEMS USING THESE PRODUCTS.



# The New Construction Material Certificate of Materials Origin (C-CMO)



## Construction Material Certificate of Materials Origin

Print Form

Project Name (Section) \_\_\_\_\_ Contract No. \_\_\_\_\_

Bid Item No. \_\_\_\_\_ Bid Item Name \_\_\_\_\_

### Domestic Materials Source

Name \_\_\_\_\_

Address \_\_\_\_\_

Description (maximum 1000 characters) \_\_\_\_\_

This certification is made for the purpose of establishing materials acceptable under the Contract Specifications titled 00160.20(d) Build America Buy America. All manufacturing processes for the domestic materials described above occurred within the United States of America.

Manufacturers' certificates verifying the origin of the above described domestic materials will be kept on file for three years following final payment. Copies will be furnished to the Engineer upon request.

I declare under penalty of perjury or falsification under Oregon and Federal laws that the foregoing is true and correct.

#### Authorized Representative\*

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Sign

\_\_\_\_\_  
Date

#### Company\* Name and Address

\_\_\_\_\_  
Company

\_\_\_\_\_  
Address 1

\_\_\_\_\_  
Address 2

\_\_\_\_\_  
City/State/Zip

\*May be Contractor, Subcontractor or Supplier

Submit a new certificate for subsequent shipments if any of the above information changes.

# The old Certificate of Materials Origin (CMO)



## CERTIFICATE OF MATERIALS ORIGIN

<b>PROJECT NAME (SECTION)</b>	<b>CONTRACT NO.</b>
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<b>BID ITEM NO.</b>	<b>BID ITEM NAME</b>
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**DOMESTIC MATERIALS SOURCE (NAME AND ADDRESS)**

**DOMESTIC MATERIALS DESCRIPTION**

**FOREIGN MATERIALS SOURCE INCLUDING MATERIAL OF UNKNOWN ORIGIN (NAME AND ADDRESS)**

**FOREIGN MATERIALS (OR OF UNKNOWN ORIGIN) DESCRIPTION AND VALUE OF IRON OR STEEL PRODUCT AS**

This certification is made for the purpose of establishing materials acceptance under the Contract Special Provisions titled 00160.20(a) Buy America. All iron or steel manufacturing processes, including protective coatings, for the domestic materials described above occurred within the United States of America.  
 Manufacturers' certificates verifying the origin of the above described domestic materials will be kept on file for three years following final payment. Copies will be furnished to the Engineer upon request.

I declare under penalty of perjury or falsification under Oregon and Federal laws that the foregoing is true and correct.

**AUTHORIZED REPRESENTATIVE\***

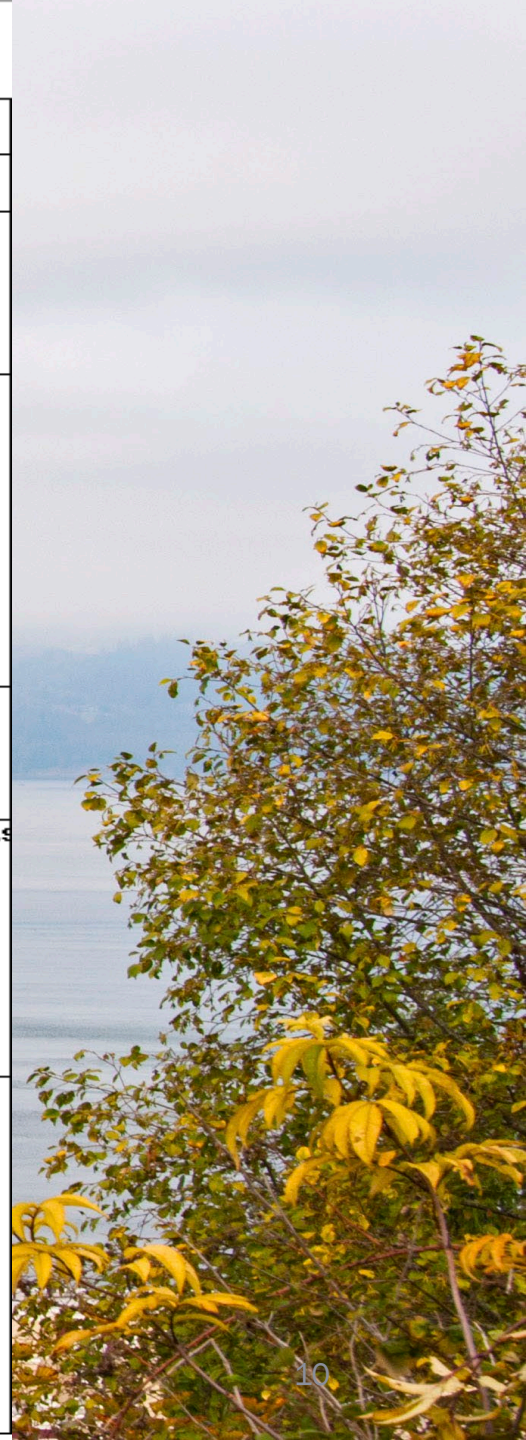
NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_

**COMPANY\* NAME AND ADDRESS:**



# The updated Non field materials acceptance guide

OREGON DEPARTMENT OF TRANSPORTATION

NONFIELD-TESTED MATERIALS ACCEPTANCE GUIDE LEGEND

January 2023 Update

2021 STANDARD SPECIFICATIONS

This guide provides a summary of acceptance documents for frequently used items. New Materials or Materials which are infrequently used may not be listed in this guide.

Consult the Contract Documents for acceptance documentation for these items.

This guide does not have precedence over the Special Provisions, Contract Plans, or Standard Specifications. Refer to 00150.10(a)\*

E – Equipment Lists and Drawings / Procedures

L – ODOT Central Materials Laboratory Report

I – ODOT Structure Services Inspection Report

W – Warranty (Manufacture or Workmanship)

P – Proof of License/Certification or Apprentice Application

M – Manufacturer's Field Representative Report

F – Field Inspection Report (FIR)

➤ *More information in form 734-2605 processing instructions.*

O – Certificate of Materials Origin (CMO for Iron or Steel - refer to 00160.20(a))

BG – Blue and Green Sheets (see Sec. 00960, 00970 or 00990)

R – Field Report

P/R – DEQ Permit or Compost Producer Registration

C – Construction Materials Certificate of Materials Origin (C-CMO) Form 734-5378 - Build America Buy America (BABA) – Refer to 00160.20(d). Listings for specific items that have been identified as Construction Materials that require a C-CMO are not currently listed in this guide however, they can be found on the following; BABA Bid-Item-List, BABA Blue-Sheet-List, and the Qualified Products List (QPL). These lists are published on the following websites:

- <https://www.oregon.gov/odot/Construction/Pages/Qualified-Products.aspx>
- <https://www.oregon.gov/odot/Construction/Pages/Contract-Administration-Services.aspx>

Q - Quality Compliance Certificate – The certificate or equivalent document meeting specification shall be from the manufacturer and shall:

- Verify the Material meets the Specifications, and identify by number any applicable specified test methods used, (ODOT, AASHTO, ASTM, UL, others)
- Permit positive determination that Material delivered to the Project is the same Material covered by the certificate:
  - Be delivered to the Engineer with the shipment of the Material,
  - Or be an identification plate or mark, decal, sticker, label, or tag attached to the container or Material.

T – Test Results Certificate – The certificate shall:

- Be from the manufacturer, verifying the Material furnished has been sampled and tested and the test results meet the Specifications
- Include, or be accompanied by, a copy of the specified test results (ODOT, AASHTO, ASTM, UL or other)
- Identify the testing agency and the representative responsible for the test results
- Permit positive determination that Material delivered to the Project is the same Material covered by the test results
- Be delivered to the Engineer with the shipment of the Material.

Small Quantity - A method for accepting relatively small quantities of Materials as noted in this guide without normal sampling and testing. Normal acceptance of Materials may be waived by the Engineer when requested in writing by the Contractor. **Small quantity acceptance requirements are listed in this guide along with the maximum amount of Material that can be accepted as small quantity.**

QPL – For some Materials, this guide will refer to the Qualified Products List (QPL). For QPL Materials, the QPL number must be entered into the Contractor Payment System regardless of the method of documentation.

- When using an "A" listed product, document with an FIR/Pay Note citing the QPL product number.
- When using a "Q" listed product, document with an FIR/Pay Note citing the QPL product number, and attach additional documentation required by this guide.
- When using a product approved after the QPL in effect for the Project, document with an FIR/Pay Note and attach a copy of the product approval letter or page from the later edition of the QPL.

**For products submitted by the Contractor that are not listed on the QPL, follow section 00160.05 of the Standard Specifications or Special Provisions.**

## Resources:

IIJA: <https://www.congress.gov/117/plaws/publ58/PLAW-117publ58.pdf>

BABA: IIJA Division G, Title IX, Sections 70901-70941

Office of Management and Budget Memo MB-22-11: <https://www.whitehouse.gov/wp-content/uploads/2022/04/M-22-11.pdf>

## Contact Information:

### General Information & Certificate of Material Origin (CMO) Forms:

Mike Dennee

[Michael.J.Dennee@odot.oregon.gov](mailto:Michael.J.Dennee@odot.oregon.gov)

503-580-2013

### Specifications:

Dan Anderson

[Daniel.A.Anderson@odot.oregon.gov](mailto:Daniel.A.Anderson@odot.oregon.gov) or [ODOTSpecifications@odot.oregon.gov](mailto:ODOTSpecifications@odot.oregon.gov)

503-986-3777

### Qualified Products List (QPL)

Dean Chess

[Dean.M.Chess@odot.oregon.gov](mailto:Dean.M.Chess@odot.oregon.gov)

503-986-3059

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## SERVICES

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## PAVEMENT

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## REFERENCES

[Qualified Products](#)

[Construction Manuals](#)

[Resources](#)

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The Contract Administration Unit is responsible for uniform administration of all Oregon Department of Transportation construction contracts including:

- Contract payments;
- Contract change orders;
- Labor compliance;
- Document compliance;
- Measurement and payment;
- Contractor's claims or disputes.



## Tools

- [Buy America Exempted Item List](#)
- [Claims Against Contractor Bonds](#)
- [Closure & Delay Liquidated Damages Calculator](#)
- [Common CCO Templates](#)
- [CON-CAL \(Reduction Computation\)](#)
- [Construction Manual](#)
- [Construction Materials Testing Costs](#)
- [Oil Prices for Current/Newer Projects](#)
- [Project Status Reports Index](#)
- [Region Assurance Guide](#)
- [StatSpec – Version 3.10.5](#)
- [Subcontract Requirements](#)

## Resources

### Build America Buy America Act

[Memo from the State Construction and Materials Engineer](#)

- [Blue Sheets](#)
- [Bid Item Lists](#)
- [Current Qualified Products \(QPL\) List](#)

## Contact the Construction Section

800 Airport Road SE  
Salem, Oregon 97301

Phone: [503-986-3000](tel:503-986-3000)

Fax: 503-986-3096

[Email the Construction Section](#)

[Contract Administration Field Personnel](#)

Visit this page for more [service resources](#).

# Questions?