

Buy American Act (BAA) v Build America, Buy America Act (BABA)

The **Buy American Act (BAA)** and **Build America, Buy America (BABA) Act** are often misunderstood and for good reason. While there are similarities with their requirements, both federal regulations are distinctly different.

BAA became law in 1933 and refers to direct procurement of products by the U.S. federal government for its own projects. The BAA has been implemented through provisions of the Federal Acquisition Regulation (“FAR”) that lay out the requirements for specific projects. For construction materials, the requirements may be found at [FAR 52.225-9](#). The requirements for “domestic construction materials” are as follows:

- 1) Manufactured in the United States; AND
- 2) EITHER;
 - a. The cost of components manufactured in the U.S. exceeds 60%, OR
 - b. Is a commercially available off-the-shelf product (“COTS”).

A COTS product is any product that is sold in substantial quantities in the commercial marketplace and sold to the Government in the same form as in the commercial marketplace.

AEROFLEX EPDM™ closed-cell elastomeric insulation and most AEROFLEX® accessories comply with BAA because they are manufactured in the USA and are COTS products.

Click [here](#) for our BAA certification.

BABA was signed into law in November 2021 as part of the Infrastructure Investment and Jobs Act. It requires that federal funds allocated for state and local infrastructure projects be procured with iron, steel, construction materials, and manufactured products that are manufactured in the United States. Additionally, there is a cost of components requirement. The BABA test for manufactured products largely mirrors the BAA requirements discussed above.

AEROFLEX® brand products are manufactured products as defined by BABA. **AEROFLEX EPDM™** insulation and most accessories comply with BABA based on being manufactured in the USA with more than 55% domestic components.

Click [here](#) for our BABA certification.

Sources:

<https://www.govinfo.gov/content/pkg/PLAW-117publ58/pdf/PLAW-117publ58.pdf>