

Rounds in Virginia Lawyer: Build America, Buy America: Be Aware

December 7, 2023 Daniel Rounds

PRACTICES Government Contracts, Federal Assistance: Grants and Cooperative Agreements, Construction Dispute Resolution, Construction

Haynes Boone Counsel [Daniel Rounds](#) authored an article in the December 2023 Edition of *Virginia Lawyer* on domestic preference compliance remaining a critically important area of focus for any contractor involved in public contracting.

Read an excerpt below:

For nearly a century, the federal government has supported domestic manufacturing through legislation favoring (and in many instances requiring) the purchase of materials and supplies manufactured in the United States. Perhaps the most famous example is the Buy American Act of 1933, 41 U.S.C. §§ 8301-8305, referred to as “Buy American,” which applies to federal supply and construction contracts. A group of statutes often referred to as “Buy America” expanded the concept beyond direct federal procurement contracts and introduced domestic content requirements for projects funded through, among other things, Department of Transportation grants. Domestic preference in federal spending has been a particularly important topic in recent years, as both the Biden and Trump administrations issued executive orders intended to maximize the use of goods, products, and materials produced in the United States in federally-funded projects.

The 2021 Infrastructure Investment and Jobs Act (“IIJA”) introduced a new domestic preference requirement through the Build America, Buy America Act (“BABA”). BABA generally requires that federal agencies ensure all iron, steel, manufactured products, and construction materials used in infrastructure projects funded through federal financial assistance (e.g., grants and cooperative agreements) are produced in the United States. This applies to federal financial assistance awarded by any federal agency, not just those agencies subject to specific Buy America statutes.

BABA empowered the Office of Management and Budget (“OMB”) to issue guidance to assist federal agencies in applying the BABA domestic preference requirement. On August 23, 2023, OMB issued the final BABA guidance, adding a new part 184 to Title 2 of the Code of Federal Regulations. 7 2 CFR Part 184 went into effect October 23, 2023.

To read the full article in *Virginia Lawyer*, click [here](#).