# Additional Required Special Terms and Conditions for Grant Awards or Cooperative Agreements

## Intellectual Property

(i.e., papers, reports, forms, materials, creations, or inventions (intangible property))

**Special Terms and Conditions for Intellectual Property apply for all grants or cooperative agreements, regardless of funding source (General, Special, Federal).**

Additionally, Federally funded grants or cooperative agreements must meet the requirements of the specific federal grant, such as making any work (e.g., materials, tools, processes, systems) developed freely available to the public, ensuring any websites developed meet government or industry recognized standards for accessibility and the requirements of **2 CFR §200.315 Intangible Property**, are met.

SECTION I. Grants or Cooperative Agreements under which no Intellectual Property will be created

If grant or cooperative agreement deliverables do not include the creation/development of Intellectual Property, the following special terms are applicable to the grant or cooperative agreement:

**INTELLECTUAL PROPERTY: The parties agree that no Intellectual Property will be created in the performance of this grant or cooperative agreement.**

## Suspension and Debarment Compliance – Non-Procurement Covered Transactions

According to 2 CFR §200.213, non-federal entities are subject to the non-procurement debarment and suspension regulations implementing Executive Orders 12549 and 12689, 2 CFR part 180. These regulations restrict awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in federal assistance programs or activities.

All recipients of federal funds through this transaction must comply with 2 CFR 180, Subpart C as a condition of participation in this transaction and must include similar terms or conditions in lower-tier covered transactions.

## Federal Funding in Public Announcements

When issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing projects or programs funded in whole or in part with Federal funding, United States Department of Education sub-grantees shall clearly state:

1. The percentage of the total costs of the program or project which will be financed with Federal funding;
2. The dollar amount of Federal funds for the project or program; and
3. The percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources.

Recipients must comply with these conditions under Division H, Title V, Section 505 of Public Law 116-260. *Consolidated Appropriations Act, 2021*.

## Prohibition of Text Messaging and Emailing While Driving During Official Federal Grant Business

Federal grant recipients, sub-recipients, and their grant personnel are prohibited from text messaging while driving a government owned vehicle, or while driving their own privately owned vehicle during official grant business, or from using government supplied electronic equipment to text message or email while driving.

Recipients must comply with these conditions under Executive Order 13513, “Federal Leadership on Reducing Text Messaging While Driving,” October 1, 2009.

## Monitoring and Reporting

1. The Virginia Department of Education (VDOE) and auditors shall have access to sub-recipient records and financial statements as necessary to meet monitoring requirements.
2. Project reimbursement and amendment requests must be made utilizing VDOE’s automated system Online Management of Education Grant Awards (OMEGA). Exceptions may be granted by VDOE grants managers via notice on the Notification of Grant Award if project reimbursement submissions are expected to be minimal during the award period.

Reimbursement may be requested prior to an activity, after the expenditure of funds, where payment in advance of an activity is required. This includes but is not limited to airfare, deposits, and registrations. The local educational agency (LEA) is responsible for reconciling expenses after the activity has occurred. Reimbursement may be requested for the difference of expenses higher than the previously requested amount. Expenses lower than the previously requested amount must be repaid via a credit on a reimbursement request within 30 days of the completed activity.

## Build America Buy America Sourcing Requirements Grant Condition Required Domestic Sourcing Under the Build America Buy America Act (BABAA):

Requirement: As a condition of this award, a grantee using grant funds for infrastructure projects or activities (e.g., construction, remodeling, and broadband infrastructure) must comply with the following requirements:

1. All iron and steel used in the infrastructure project or activity are produced in the United States. Accordingly, all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
2. All manufactured products used in the infrastructure project or activity are produced in the United States. Accordingly, the manufactured product was manufactured in the United States and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation.

1. All construction materials are manufactured in the United States. Accordingly, all manufacturing processes for the construction material occurred in the United States.

Scope: The Buy America domestic sourcing requirement only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. The requirement does not apply to:

(1) tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project.

(2) equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project but are not an integral part of the structure or permanently affixed to the infrastructure project.

Categorization of Articles, materials, and supplies: An article, material, or supply should only be classified into one of the following categories:

1. Iron or steel products.
2. Manufactured Products
3. Construction Materials
4. Section 70917(c) materials

An article, material, or supply should not be considered to fall into multiple categories. In some cases, an articles, material, or supply may not fall under any of the categories listed above. The classification of an article, material or supply as falling into one of the categories listed above must be made based on its status at the time it is brought to the work site for incorporation into an infrastructure project. In general, the work site is the location of the infrastructure project at which the iron, steel, manufactured products, and construction materials will be incorporated.

Application of the BABAA domestic content procurement preference by category: An article, material, or supply incorporated into an infrastructure project must meet the BABAA domestic content procurement preference for only the single category in which it is classified.

Definitions: Definitions for iron or steel products, manufactured products, and construction materials are available in 184.3 of 2 CFR Part 184 -- Buy America Preferences for Infrastructure Projects.

BABAA Section 70917(c): BABAA Section 70917(c) establishes limitation with respect to aggregates accordingly: (1) the term construction materials shall not include cement and cementitious materials, aggregates such as stone, sand, or gravel, or aggregate binding agents or additives.

Determining the cost of components for manufactured products: In determining whether the cost of components for manufactured products is greater than 55 percent of the total cost of all components, use the following instructions:

(1) For components purchased by the manufacturer, the acquisition cost, including transportation costs to the place of incorporation into the manufactured product (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or

(2) For components manufactured by the manufacturer, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (a), plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the manufactured product.

Construction material standards: The BABAA domestic content procurement preference applies to the following construction materials incorporated into infrastructure projects. Each construction material is followed by a standard for the material to be considered produced in the United States. Except as specifically provided, only a single standard should be applied to a single construction material.

(1) Non-ferrous metals. All manufacturing processes, from initial smelting or melting through final shaping, coating, and assembly, occurred in the United States.

(2) Plastic and polymer-based products. All manufacturing processes, from initial combination of constituent plastic or polymer-based inputs, or, where applicable, constituent composite materials, until the item is in its final form, occurred in the United States.

(3) Glass. All manufacturing processes, from initial batching and melting of raw materials through annealing, cooling, and cutting, occurred in the United States.

(4) Fiber optic cable (including drop cable). All manufacturing processes, from the initial ribboning (if applicable), through buffering, fiber stranding and jacketing, occurred in the United States. All manufacturing processes also include the standards for glass and optical fiber, but not for non-ferrous metals, plastic and polymer-based products, or any others.

(5) Optical fiber. All manufacturing processes, from the initial preform fabrication stage through the completion of the draw, occurred in the United States.

(6) Lumber. All manufacturing processes, from initial debarking through treatment and planning, occurred in the United States.

(7) Drywall. All manufacturing processes, from initial blending of mined or synthetic gypsum plaster and additives through cutting and drying of sandwiched panels, occurred in the United States.

(8) Engineered wood. All manufacturing processes from the initial combination of constituent materials until the wood product is in its final form, occurred in the United States.

1. Waivers: Grantees may request waivers to the BABAA domestic content procurement preference requirements by submitting a Build America, Buy America Act Waiver Request Form. Pass-through entities may not approve waivers of the BABAA domestic sourcing requirements. Waiver requests are subject to public comment periods of

no less than 15 days and must be reviewed by the Office of Management and Budget s Made in America Office. For information regarding the BABAA domestic content procurement preference waiver requirements and waiver request guidance document available here: Build America, Buy America Act Domestic Content Procurement Preference Requirements Agency Level Waivers and Grantee Waiver Request Procedures.

Records: As required under 2 CFR 200.334, a grantee must maintain financial records, supporting documents, statistical records, and all other non-Federal entity records pertinent to their infrastructure project for a period of three years from the date of submission of the final expenditure report, including all records related to the domestic sourcing of materials used in the infrastructure project(s) supported by this grant or the applicability of any agency-level waivers of the BABAA domestic content procurement preference requirements the grantee chooses to implement.

Contact: For more information, see the Department of Education’s Build America Buy America Waiver website at: Build America Buy America Waivers Website (ed.gov).

## TRAFFICKING IN PERSONS

The Department of Education adopts the requirements in the Code of Federal Regulations at 2 CFR 175 and incorporates those requirements into this grant through this condition. The grant condition specified in 2 CFR 175.15(b) is incorporated into this grant with the following changes. Paragraphs a.2.ii.B and b.2. ii. are revised to read as follows:

“a.2.ii.B. Imputed to you or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 34 CFR part 85.”

“b.2. ii. Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 34 CFR part 85.”

Under this condition, the Secretary may terminate this grant without penalty for any violation of these provisions by the grantee, its employees, or its subrecipients.