

Neither costs, nor the value of third-party in-kind contributions, may count towards satisfying a cost sharing or matching requirement of a grant agreement if they have been, or will be, counted towards satisfying a cost sharing or matching requirement of *another* Federal grant agreement, a Federal procurement contract, or any other award of Federal funds.

Cost financed by 'program income' shall not count towards satisfying a cost sharing or matching requirement unless they are expressly permitted in the terms of the grant agreement. NBRC has opted to regard program income through the deductive method as outlined in 2 CFR 200.307(e)(1).

Costs and third-party in-kind contributions counting towards satisfying a cost sharing or matching requirement must be verifiable from the records of the recipients and sub recipients. These records must show how the value placed on third party in-kind contributions was derived. To the extent feasible, volunteer services will be supported by the same methods that the organization uses to support the allocability or regular personnel costs.

All match/cost share must be committed by September 30th of the year following the award year. For example, if you received a 2023 SEID award, match must be secured by September 30, 2024. **This date allows for extraordinary situations that may occur. Grantee should be communicating with all entities, the LDD, State Program Managers and NBRC staff so that this deadline is met. If this date cannot be met, the grantee must contact NBRC and the State Program Manager to discuss the challenges and determine a path forward.** If the project is not able to move forward, these funds can be transferred to alternate projects that are ready to move forward toward completion.

There will be no third-party grant administration for NBRC grants. NBRC is directed by Congress to build the capacity of its Local Development Districts. These entities are available to grantees for administrative assistance. It is NBRC's policy to sole source work to the LDDs to meet its legislative mandate to, "enhance the capacity of, and provide support for, local development districts in its region." State agencies and entities who have received an LDD waiver for their project, from NBRC, are exempt from this administration requirement.

There may be required items specific to the award that are listed within the Grant Agreement. (Check the Grant Agreement, all requirements are listed there).

Procurement

Procurement actions involve the purchase of goods and services needed to support the grant award. Government-wide regulations contained in 2 CFR 200 317-326 govern procurement

actions. These regulations allow grantees to follow their own procurement procedures so long as they meet the minimum standards identified within 2 CFR 200.

PRO TIP!

Use this language in your RFP/RFQ to ensure compliance

Made in America laws are applicable to federal financial assistance (such as grants). In accordance with the policy of the United States Government, consistent with applicable law, use, terms and conditions of Federal financial assistance awards and federal procurements, recipients must maximize the use of goods, products, and materials produced in, and services offered, in the United States. Whenever possible, the recipient shall procure goods, products, materials, and services from sources that will help American businesses compete in strategic industries and help America's workers thrive. See the January 25, 2021 Executive Order on Ensuring the Future is Made in All of America by All of America's Workers for more information.

"Made in America Laws" means all statutes, regulations, rules, and Executive Orders relating to Federal financial assistance awards or Federal procurement, including those that refer to "Buy America" or "Buy American," that require, or provide a preference for, the purchase or acquisition of goods, products, or materials produced in the United States, including iron, steel, and manufactured goods offered in the United States. Made in America Laws include laws requiring domestic preference for maritime transport, including the Merchant Marine Act of 1920 (Public Law 66-261), also known as the Jones Act, and domestic content preference for infrastructure programs including the **Build America, Buy America Act (BABAA)** enacted on November 15, 2021 (E.O. 14005 "Ensuring the Future Is Made in All of America by All of America's Workers").

BABAA sets forth a domestic content procurement preference for infrastructure programs funded with Federal dollars. "Infrastructure" in the context of BABAA includes the structures, facilities, and equipment for, in the United States, roads, highways, and bridges; public transportation; dams, ports, harbors, and other maritime facilities; intercity passenger and freight railroads; freight and intermodal facilities; airports; water systems, including drinking water and wastewater systems; electrical transmission facilities and systems; utilities; broadband infrastructure; and buildings and real property. The Buy America preference only applies to the iron and steel, manufactured products, and construction materials used for the infrastructure project under an award. This means manufacturing occurred in the United States. If a project is funded by multiple Federal entities, the entity representing the largest investment in the project is considered the "Cognizant Agency for Made in America" and should take responsibility for the coordination of any waivers produced. For additional details, updates and FAQs please click here: Made in America Office (MIAO).

NBRC can provide BABAA waivers to specific projects on a case-by-case basis with approval from the Made In America Office (MIAO) when:

- Applying the domestic content procurement preference would be inconsistent with the public interest ("public interest waiver");

- The iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality (“nonavailability waiver”);
- Inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent (“unreasonable cost waiver”)

Please see the Appendix of this manual for additional guidance on BABAA requirements and the waiver process.

NBRC reserves the right to review the procurement procedures of the grantee at any time during the application review process or during performance of the grant in accordance with 2 CFR 200.324. Recipients must keep all procurement documents in their project file in the event the project is monitored and/or audited for programmatic compliance. Grantees funded with USDA dollars will be required to provide copies of procurement procedures during the performance of the grant.

It is the responsibility of the grantee to review and understand these applicable procurement requirements. While Local Development Districts are available to assist with procurement; the grantee is responsible for ensuring that the process is conducted properly.

Code of Conduct

Grantees must have a written code of conduct that governs the behavior of their officers, employees, and agents who are involved in the selection, award, and administration of contracts. This code must, at a minimum, provide that these individuals refrain from participating in such actions if they have a real or apparent conflict of interest. Such a conflict of interest would arise if the individual or any member of his or her immediate family has a financial or other interest in any firm considered for a contract. Further, these individuals must neither solicit nor accept anything of value from a prospective or incumbent contractor. Additional information about the code of conduct is contained in 2 CFR 200.318 (c).

Solicitation

Grantees must ensure that all solicitations (invitations for bids/quotes and requests for proposals) contain a clear and accurate description of the product or service being procured, identify all requirements that the offeror must fulfill, and all factors that will be used in evaluating bids or proposals.

Competition

All procurement transactions must be conducted in a manner providing full and open competition consistent with the standards of 2 CFR 200.319. To ensure objective contractor