Build America, Buy America Contract Provision for Vocational Rehabilitation Contracts

# General

The following contract provision is to be used in concert with the information and requirements in WD Letter 04-23, issued June 7, 2023, and titled, “Build America, Buy America Act: Compliance under Vocational Rehabilitation Contracts with Local Workforce Development Boards.” Replace the placeholder text “[Board Name]” with the name of the Local Workforce Development Board. Defined terms have the same meanings described in WD Letter 04-23. The following contract provision conforms to a sample provision that was provided by the US Department of Education Rehabilitation Services Administration as technical assistance to State Vocational Rehabilitation Directors. The Texas Workforce Commission requires that it be inserted into procurement solicitations and contracts as described in WD Letter 04-23.

# Contract Provision

The Contractor acknowledges that it understands and agrees that the infrastructure goods it is providing or acquiring under this Agreement are supported with Federal funds subject to the Build America, Buy America Act (BABAA). See Section 70912, the Build America, Buy America Act, the “Infrastructure Investment and Jobs Act” (IIJA; P.L. 117-58). Under that provision, BABAA applies where Federal funding supports an infrastructure project as defined in Section 70912 of BABAA. BABAA requires all of the iron and steel, manufactured products, and construction materials used in the project to be produced in the United States (“Build America, Buy America Requirements”) including iron and steel, manufactured products, and construction materials provided by the Contractor pursuant to this Agreement. The Contractor hereby represents and warrants: (a) the Contractor has reviewed and understands the Build America, Buy America Requirements, (b) all of the iron and steel, manufactured products, and construction materials used in the project will be and/or have been produced in the United States in a manner that complies with the Build America, Buy America Requirements, unless a waiver of the requirements is approved, and (c) the Contractor will provide any further verified information, certification or assurance of compliance with this paragraph, or information necessary to support a waiver of the Build America, Buy America Requirements, as may be requested. Notwithstanding any other provision of this Agreement, any failure to comply with this paragraph by the Contractor shall permit recovery as damages against the Contractor any loss, expense, or cost (including without limitation attorney’s fees) incurred by the Funding Authority resulting from any such failure (including without limitation any impairment or loss of funding, whether in whole or in part, from the Texas Workforce Commission (TWC) or [Board Name] or any damages owed to TWC or [Board Name]).