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Procuring Build America, Buy America (BABA)-Compliant Electric Vehicle Chargers and Intelligent Transportation Systems

Strategies to Streamline Deployment

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Procuring Build America, Buy America (BABA)-Compliant Electric Vehicle Chargers and Intelligent Transportation Systems

This report examines how state agencies are navigating Build America, Buy America (BABA) compliance for electric vehicle chargers and intelligent transportation systems. Drawing on workshops and interviews with state departments of transportation and other stakeholders, it highlights key implementation challenges and emerging strategies related to domestic sourcing, vendor certification, compliance tracking, and coordination with federal partners.

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The Eastern Transportation Coalition is a partnership of 19 states and the District of Columbia focused on connecting public agencies across modes of travel to increase safety and efficiency. Additional information on the Coalition, including other project reports, can be found on the Coalition's website: www.tetcoalition.org



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At a Glance: Build America, Buy America Compliance for Electric Vehicle (EV) Chargers and Intelligent Transportation Systems (ITS)

What is Build America, Buy America (BABA)? To build domestic supply chains for advanced manufacturing, the Infrastructure Investment and Jobs Act of 2021 (IIJA) included the Build America, Buy America (BABA) Act, requiring that federally funded infrastructure projects use American-made materials and products.

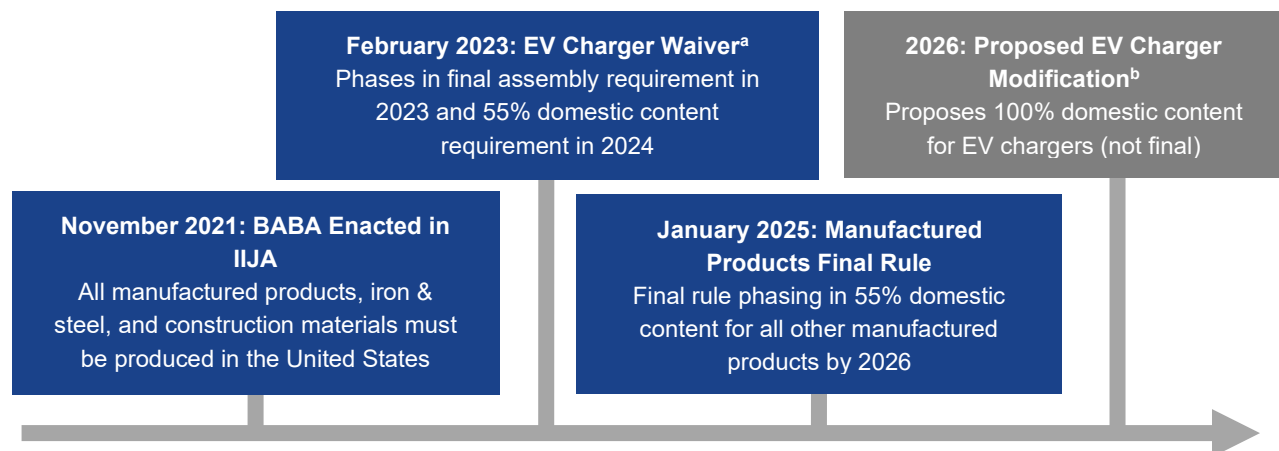
Requirements for manufactured products include:

1. The cost of components manufactured in the United States is at least 55 percent of the cost of all components.
2. Final assembly takes place in the United States.

These are not the first American-made requirements, but long-standing waivers meant they were not a significant consideration until IIJA passed. Prior to IIJA, the Surface Transportation Act of 1978 contained the Buy America provision, which required 100 percent of steel, cement, and manufactured products in federally funded transportation projects to be made in the United States. However, the Federal Highway Administration (FHWA) issued a 1983 waiver exempting manufactured products from Buy America requirements, which was in effect until the implementation of BABA. In February 2023, FHWA implemented a separate temporary waiver from BABA for EV chargers, allowing manufacturers time to comply with the 55 percent requirements by 2024. In January 2025, FHWA implemented a final rule phasing in the U.S. assembly and 55 percent domestic content requirement for all other manufactured products by 2026. In 2026, FHWA proposed a new rule that would require EV chargers to meet a 100 percent domestic requirement. This rule is not yet final.

BABA applies to federally funded EV Chargers and ITS. The National Electric Vehicle Infrastructure (NEVI) and Charging and Fueling Infrastructure (CFI) programs fund EV chargers along highways and in communities. Many federal programs can fund ITS projects (e.g., Surface Transportation Block Grant or Congestion Mitigation and Air Quality). ITS projects use sensors, communications networks, data analytics, and control technologies to improve safety, efficiency, reliability, and performance of transportation systems.

Figure 1: Timeline of Recent Policy Developments Since BABA Was Enacted



^a While it was referred to as a “waiver,” the rulemaking defined requirements for BABA compliance and set a phase-in timeline for EV chargers.

^b The proposed modification is not yet final as of the time of publication.

State agencies are discovering challenges and solutions during initial implementation. As states have deployed IIJA-funded projects, BABA has become a constraint that has contributed to construction delays and increased costs of projects due to lack of domestic equipment, lack of supply chain transparency and vendor documentation, and other challenges. Particularly in the case of EV chargers, which were subject to a more rapid BABA phase-in timeline, states have reported project delays caused by BABA requirements. Knowledge-sharing is key to avoid future bottlenecks.

This report summarizes how various eastern states are tackling challenges associated with BABA compliance for EV chargers and ITS, informed by two virtual workshops and eight one-on-one interviews alongside desk research reviewing the transportation literature as well as state websites and available tools for compliance. The goal is to highlight practical strategies relevant to other states and industry, which can also inform strategies for other asset categories. Key insights fall into three major themes: Finding and Procuring Domestic Equipment; Tracking and Certifying Vendors; and Understanding Requirements and Receiving Adequate Guidance.

Not all strategies are appropriate in all jurisdictions, but they can provide a starting point for state agencies to refine and streamline their compliance approach.

Figure 2: Overview of Key Challenges and Potential Strategies from State Agencies

	<i>Finding & Procuring Domestic Equipment</i>	<i>Tracking & Certifying Vendors</i>	<i>Understanding Requirements & Receiving Adequate Guidance</i>
Challenges	Lack of Domestic Suppliers (↗) (⇐) High Demand for Products (↗) (⇐) Interoperability of Parts and Software (⇐)	Lack of Capacity to Verify BABA Compliance (↗) (⇐) Lack of Capacity to Track BABA-Compliant Procurement (⇐)	Patchwork of Regulatory Interpretations (↗) (⇐)
Potential Strategies	Mapping Supply Chains (↗) (⇐) Pursuing Waivers (↗) (⇐) Focusing on High-Impact Equipment (↗) (⇐) Strategically Allocating Funding and Advance Construction (↗) (⇐) Identifying Temporary or Permanent Replacements (⇐)	Implementing State-Led Certification (↗) (⇐) Requiring Vendor Self-Certification (↗) (⇐) Leveraging Digital Tools (↗) (⇐) Sharing Responsibility with Subrecipients (↗)	Proactively Engaging FHWA Headquarters and Divisions (↗) (⇐) Participating in Multi-State Collaboration (↗) (⇐)

Challenges and Strategies Primarily Apply To: (↗) EV Charging; (⇐) ITS

Introduction

In an effort to build domestic supply chains for advanced manufacturing, the U.S. Congress enacted the Build America, Buy America (BABA) Act as part of the Infrastructure Investment and Jobs Act of 2021 (IIJA) [1], requiring that federally funded infrastructure projects use American-made materials and products. This was not the first time that these requirements were established; rather, Buy America was included in the Surface Transportation Act of 1978 [2]. However, a long-standing waiver from the Federal Highway Administration (FHWA) meant that it was not a significant consideration for state departments of transportation (DOTs) until the passage of BABA. Once BABA passed, a separate waiver for electric vehicle (EV) charging established in 2023 allowed manufacturers to catch up as the rule phased in through 2024 [3]. While domestic manufacturing did surge after the passage of IIJA—including about \$1 billion of private investment in EV charger manufacturing alone [4]—the industry has not caught up to demand and regulatory uncertainty has led to a slowdown of development. As states have deployed IIJA-funded projects, BABA has become a constraint that has contributed to construction delays due to lack of domestic equipment, lack of supply chain transparency and vendor documentation, and other challenges. Particularly in the case of electric vehicle (EV) chargers, which were subject to a more rapid BABA phase-in timeline, states reported project delays caused by BABA requirements.

This report summarizes how various states within The Eastern Transportation Coalition (the Coalition) region are tackling challenges associated with BABA compliance, focusing on two asset categories: EV chargers and intelligent transportation systems (ITS) infrastructure. The goal is to highlight practical strategies relevant to other states and industry, which can also inform strategies for other asset categories. The Coalition and Atlas Public Policy led a multi-stage research project to gather input. This began with a virtual workshop in March 2026 to gather initial input from state agencies, which was attended by 27 participants across 15 states, two multi-state coalitions, one federal agency, and one trade association. Next, a set of eight one-on-one and small group interviews (representing eight state agencies and one trade association) allowed stakeholders to provide more detailed input on the topics raised in the first workshop. Finally, the Coalition held a follow-up workshop with states in August 2026 to share findings and gather further input, which was attended by 53 participants from 16 states. At each stage, the team prioritized getting input from a variety of state agencies to ensure diverse perspectives. This included states from different regions of the Coalition's membership, states of different sizes, and states with different levels of experience with BABA compliance as it relates to EV chargers and ITS assets. See Table 1 for the list of state agency stakeholders providing input at each stage. In addition to the state agencies listed, the National Electrical Manufacturers Association (NEMA) and The Intelligent Transportation Society of America (ITS America) also provided input.

Table 1: State Agencies Providing Input at the Workshops and Interviews

Workshop State Participants		State Interview Participants
Connecticut DOT	Massachusetts DOT	Florida DOT
Delaware Department of Natural Resources and Environmental Control	New Hampshire DOT	Kentucky Transportation Cabinet
Delaware DOT	New Jersey DOT	Maine DOT
District DOT	New York State DOT	New York State DOT
Florida DOT	North Carolina DOT	North Carolina DOT
Georgia DOT	North Carolina Department of Environmental Quality	Pennsylvania DOT
Kentucky Transportation Cabinet	Pennsylvania DOT	Virginia DOT
Maine DOT	Tennessee DOT	
Maryland Transportation Authority	Rhode Island DOT	
	South Carolina DOT	
	Virginia DOT	

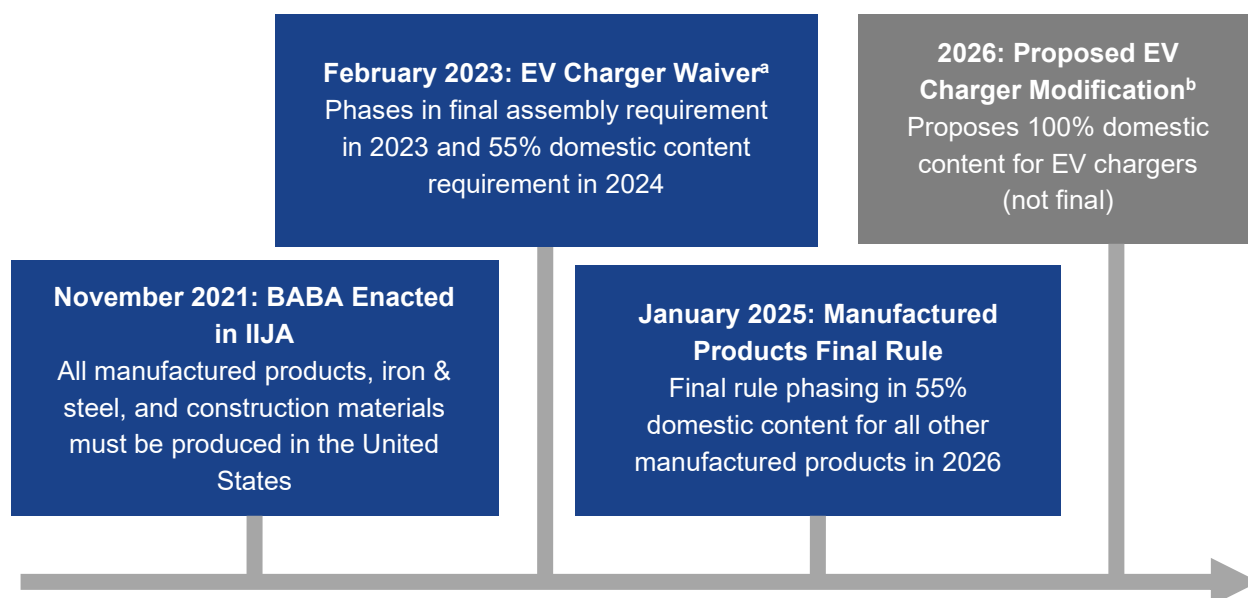
The report begins with an overview of BABA policy developments and how the requirement has been applied to EV charging and ITS. It then summarizes the key lessons learned, broken down into three main categories: 1) Finding and Procuring Domestic Equipment; 2) Tracking and Certifying Vendors; and 3) Understanding Requirements and Receiving Adequate Guidance. Each section includes a discussion of the key challenges and possible strategies to overcome them raised by state agencies.

Background on Build America, Buy America

In the IIJA [1], Congress created a new BABA provision which requires all manufactured products, iron and steel, and construction materials used in federally funded infrastructure to be produced in the United States. This represented a new iteration of long-standing policy: the Surface Transportation Act of 1978 contained a similar provision called Buy America [5]. However, FHWA issued a waiver in 1983, exempting manufactured products from Buy America requirements [2]. That waiver was in effect until the passage of IIJA.

The manufactured products requirement applies to both EV charging infrastructure and ITS equipment, and lessons learned in implementation are often applicable to both asset categories. However, the phase-in timeline for requirements in each category varies, and the EV charging requirements face some additional recent policy uncertainty. See Figure 3 for an overview of recent developments, which is further described in the following sections.

Figure 3: Timeline of Recent Policy Developments Since BABA Was Enacted



^a While it was referred to as a “waiver,” the rulemaking served to define the requirements for BABA compliance and set a phase-in timeline for EV chargers, as discussed in the following section.

^b The proposed modification is not yet final as of the time of publication.

BABA Applied to EV Charging Equipment

EV charging equipment covered by BABA includes the charger itself and the components contained inside it. Two federal programs are designed to fund EV charging infrastructure: the National Electric Vehicle Infrastructure (NEVI) program [6] and the Charging and Fueling Infrastructure (CFI) program [7], although some other formula funding programs allow states to fund EV charging infrastructure (e.g., Congestion Mitigation and Air Quality).

In February 2023, FHWA implemented a separate temporary public interest waiver from BABA for EV chargers [3], putting this technology on a separate track from other manufactured products. There are two components to the requirement: domestic content and final assembly. The waiver defined BABA compliance by requiring that “the cost of components manufactured in the United States is at least 55 percent of the cost of all components” (referred to as “the domestic content requirement”) and requiring that final assembly must take place in the United States. It also set a phased timeline for compliance, with the final assembly requirement in effect by March 2023 and the domestic content requirement in effect by June 2024.

In February 2026, FHWA proposed modifying the waiver for EV charging to require 100 percent domestic content [8]. After a public comment period and no public determination on the proposed modification, FHWA separately published a notice of proposed rulemaking in July 2026 to implement the same 100 percent requirement in the underlying regulations governing federally funded chargers (rather than the EV charging waiver) [9]. As of this writing, FHWA has not issued a final rule on either proceeding. This means the requirement does not yet apply; however, the uncertainty of when it could become final and take effect causes concern for states. For example, a state that issues a solicitation for projects wants to be able to run that process with existing rules before selections are made. With uncertainty about the BABA requirements, there is potential for states to have to re-issue solicitations if contracting requirements change, an inefficient outcome for states with limited resources. If projects do not meet the new requirements and have not yet passed the proper administrative steps for obligation, they could see their funding commitments

not move forward as planned. If the states do not have enough resources to redo their solicitations, those solicitations could be canceled entirely. **Whether the rule will move forward and when is uncertain, and further changes to this or other rules by future presidential administrations are possible.** In the meantime, states continue to push to obligate funds and share lessons learned for complying with the existing 55 percent requirement. The existing policy is the focus of this report, reflecting the fact that states will need to learn how to institute policies and processes for BABA compliance regardless of federal policy volatility over the next several years.

BABA Applied to ITS Equipment

ITS can include a diverse set of projects that improve safety and efficiency of transportation systems, but they typically incorporate sensing, data analysis, communications, and control technologies. Examples include smart traffic controls, connected vehicles, automated tolling, hazard detection, and other applications. Many federal programs can fund ITS projects, including broad programs like the Surface Transportation Block Grant program [10], Congestion Mitigation and Air Quality (CMAQ) program [11], and Carbon Reduction Program [12]. There are also some programs that are more targeted towards ITS, such as Advanced Transportation Technologies and Innovation (ATTAIN) [13] and Strengthening Mobility and Revolutionizing Transportation (SMART) [14].

For manufactured products other than EV chargers, including those used in ITS infrastructure, there was a longer delay between enactment of BABA and regulatory action by FHWA. In January 2025, the FHWA implemented a final rule phasing in the same final assembly and 55 percent domestic content requirement that applied to EV chargers, now for all other manufactured products [15]. It required that these products meet the final assembly requirement by October 2025 and the domestic content requirement by October 2026.

These two separate timelines for compliance mean that states are in earlier stages of BABA implementation for ITS equipment, with many just now learning about how to implement the requirements. However, many lessons learned with EV chargers are also relevant for ITS, and some states that have been particularly proactive can help inform others that are just getting started now.

Lessons Learned to Date

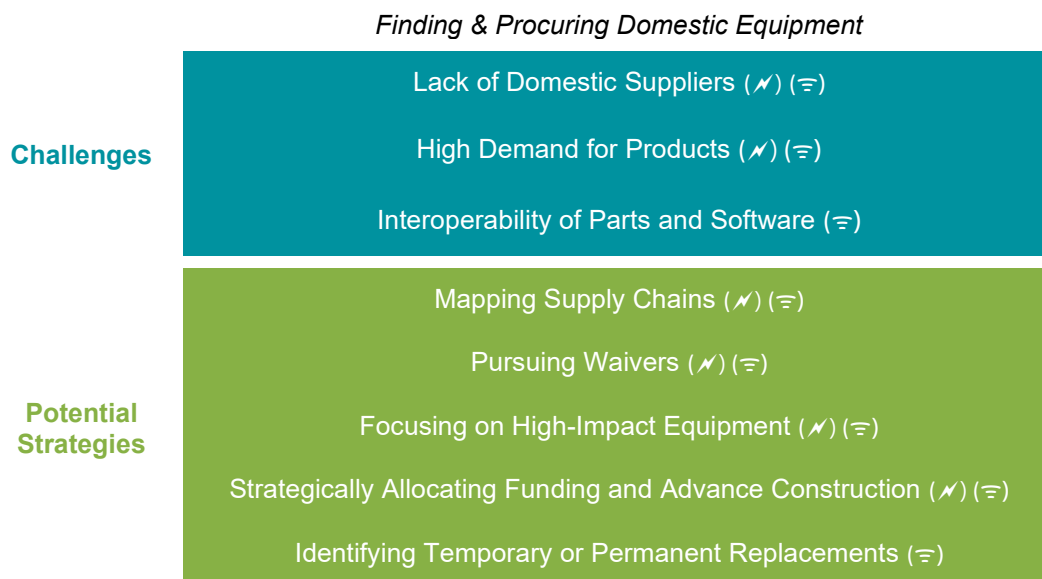
Insights gathered from the workshops and interviews are grouped into three major themes: 1) Finding and Procuring Domestic Equipment; 2) Tracking and Certifying Vendors; and 3) Understanding Requirements and Receiving Adequate Guidance. States identified several key challenges and potential strategies, as described in the following sections. While not all strategies may be feasible or appropriate in all jurisdictions, they can provide a starting point for state agencies that are working on implementing BABA requirements. Where the challenges or strategies apply to ITS or EV charging uniquely (rather than broadly applicable), that is indicated.

Finding and Procuring Domestic Equipment

BABA is intended to spur investment in domestic manufacturing, but these facilities take time to secure investment and build. A key challenge for states is finding compliant equipment and overcoming high competition for scarce supply caused by lack of operational manufacturing.

Figure 4 summarizes the challenges and potential strategies that will be discussed in the following sections.

Figure 4: Overview of Key Challenges and Potential Strategies from State Agencies—Finding and Procuring Domestic Equipment



Challenges and Strategies Primarily Apply To: (↗) EV Charging; (≡) ITS

Challenge: Lack of Domestic Suppliers (↗) (≡)

Identifying suppliers with compliant equipment is a resource-intensive process, which is especially challenging for states with limited staff time and resources. State agencies vary in how involved they are in identifying suppliers. Some indicated that they are heavily engaged, including investigating potential suppliers, providing approved product lists to contractors, and/or ensuring contractors document BABA-compliant products used in case of future audits. Identifying suppliers is especially challenging for ITS, because it includes many component types.

Some state agencies have limited staff or resources to identify BABA-compliant suppliers, especially on top of other responsibilities. States expressed that they faced administrative burdens early on because they did not have in-house staff with adequate expertise related to EV charging. Many agencies have focused their efforts on building staff capacity, which sometimes required asking transportation staff without EV knowledge to oversee EV charging programs—while also building experience with detailed procurement requirements like BABA.

In contrast, one state agency indicated that they defer responsibility for identifying suppliers to awardees. This typically means compliance is also delegated to awardees, which comes with a risk of additional costs or loss of federal funding if an audit finds that non-compliant equipment is used. Several states indicated that they were concerned about legal risk from potential audits, but FHWA has not clearly specified who would perform audits or when. One state reported that FHWA had begun reviewing certain projects for BABA compliance.

Challenge: High Demand for Products (↗) (≡)

Where there are domestic suppliers available, there are often manufacturing bottlenecks and long lead times. For EV charging, several state DOTs shared that the supply of higher-power direct current fast chargers (DCFCs) that are compliant with BABA is sufficient, but lower-power alternating current (AC, also known as Level 2) chargers complying with BABA requirements are more challenging to source. One state indicated that the federal government pushed most manufacturing interest from Level 2 to DCFC by initially prioritizing DCFC in the National Electric Vehicle Infrastructure (NEVI) program. Even where there has been an adequate supply of BABA-compliant equipment, some state agencies have seen long lead times between orders and delivery.

For ITS, while domestic manufacturers exist, demand appears to currently outpace supply. States pointed to long lead times for equipment delivery as a result of this high demand. Some important types of equipment are still not available at all domestically, such as cameras with specialized lenses, wrong-way detection devices, and parking space detection equipment. Many states do not have resources to do their own supply chain mapping of such a complex asset category.

One state agency suggested that even if there were a master list of suppliers with compliant products, the existence of that list could drive a rush of customers in the near term, leading to longer project delivery times and potentially higher prices due to the surge in demand. That same state also observed that suppliers tend to prioritize larger customers that can order higher quantities of equipment, and small businesses contracted for federally funded projects can face even longer lead times from suppliers.

Challenge: Interoperability of Parts and Software (≡)

ITS systems include technologies that have been part of transportation infrastructure for years or decades. As a result, these systems are much more likely to need replacement or repair than EV charging infrastructure. When systems need to be expanded or parts replaced, domestic products do not always interact seamlessly with previously installed products. For ITS, this can lead to interoperability issues. States report that it is already difficult to find interoperable equipment, and adding BABA requirements sometimes introduces the need to switch vendors. This could increase difficulties with futureproofing and designing systems where all components are interoperable. For example, some traffic operations devices require synchronization for safety purposes, which is only possible with compatible equipment. Where projects must use new components that are not interoperable, this could trigger complex and costly redesigns of systems and complex standards for procurement.

Strategy: Mapping Supply Chains (↗) (≡)

States or other stakeholders are mapping out where there is availability or gaps in domestic supply chains, and sharing information where possible. Some state agencies have taken an active role in identifying and procuring compliant equipment. For example, one state agency conducted a full examination of BABA-compliant parts for their ITS projects: out of 750 product categories, they found that about 700 have sufficient domestic suppliers with interoperable products. This helped them identify where waivers or other actions should be targeted.

Strategy: Pursuing Waivers (↗) (≡)

States can request waivers for components where there are gaps in domestic supply chains or for other documented reasons, but approvals are uncertain. The basis of a waiver could be lack of domestic suppliers, interoperability risks, or de minimis exemptions. State DOTs that are well-staffed and well-resourced have been pursuing component-specific or project-specific waivers for components that are particularly challenging. This state-by-state approach has inherent challenges for companies that offer equipment in small amounts across states. For example, if a waiver is needed for products from a single company that supplies multiple states, each state must request that waiver, creating duplicative administrative burden and potentially non-uniform application of the requirements. States can consider the following types of waivers:

- **Component availability waivers:** To request a waiver for a lack of domestic suppliers, states need to prove that none exist, and many do not have that information. As part of the waiver application process, the applicant must work with the National Institute of Standards and Technology (NIST)'s Supplier Scouting process, during which NIST's Manufacturing Extension Partnership offices leverage their relationships to identify suppliers who can supply BABA-compliant equipment [19]. This process could be useful for states to engage proactively, not just as part of the waiver application process, and states shared that they could improve the process by surfacing what applicants have already sought to avoid duplicative inquiries or searches.

States can also share the results of their supplier identification processes with their peers. One state indicated that they are working to make their ITS equipment waiver request language usable by other states by incorporating references to national standards such as the Manual on Uniform Traffic Control Devices and by flagging where their peers can add citations to their own state regulations and specifications.

- **Component interoperability waivers:** Even if there are domestic manufacturers, the products offered for sale may not be interoperable with existing systems. One state shared that they are pursuing waivers specifically for ITS components that otherwise pose interoperability risks.
- **De minimis waivers:** States can also take advantage of de minimis exemptions. One state shared that they worked with other states to successfully get a de minimis exemption for awards under \$500,000. For EV charging, typically projects are above this threshold, but it could apply to some small, lower-power charging projects. De minimis waivers are considered standard waivers, so unlike the component waivers, do not require a complicated application process. As long as the project meets the requirements of the waiver, it is approved.
- **Multi-state waivers:** Some states have indicated interest in multi-state joint waiver requests in the future. States suggested a multi-state waiver could help reduce duplication and increase consistency across participating states. As a result, this could create more certainty for the states and for potential project developers who bid for projects in multiple states. One state suggested that the Coalition or a similar organization could be a useful venue to coordinate a multi-state waiver if states chose to pursue one.

While many states expressed interest in component-specific or project-specific waivers and some are actively pursuing them, there is significant uncertainty about whether they will be processed and approved by FHWA. According to the FHWA website, as of August 2026, the agency has not

granted any waivers from BABA requirements for EV chargers or ITS infrastructure beyond the initial transitional waivers in 2023 [20].

Strategy: Focusing on High-Impact Equipment (↗) (≡)

Efforts to onshore supply chains can focus on subcomponents that make up the largest share of product costs. One state agency suggested focusing onshoring activities on components such as semiconductors, which make up the largest portion of costs for ITS products and could in some cases account for more than 55 percent (the BABA-required minimum) of a product's content alone. It is important to note, however, that because these parts make up a large portion of installation costs, switching to domestic alternatives (which are typically more expensive) could increase the total cost of the equipment. This could decrease the total number or total scope of projects that can be funded with available federal funding.

Strategy: Strategically Allocating Funding and Advance Construction (↗) (≡)

Some states are exploring creative ways to minimize the uncertainty of future policy changes related to BABA requirements. In the context of the NEVI program, multiple states mentioned that because the BABA requirements were applied at the time the money was obligated, obligating funding as quickly as possible allowed those early awardees to apply the less stringent requirements prior to the phase-in (i.e., the date when both U.S. final assembly and 55 percent domestic content took effect). This could also be a strategy for future regulatory changes, to minimize the risks from any future policy changes such as the current proposed change where the domestic content requirement could go from the current 55 percent to 100 percent. One approach is to use advance construction authority, where funds are obligated before contracts are in place, but this requires FHWA approval [21]. Some states are legally unable to use advance construction and are only able to obligate after projects are awarded.

One state agency suggested that since BABA is tied to federal funding only, states could strategically find ways to use state funding for ITS projects that require products with the most challenging domestic supplies. However, this is likely to vary state by state based on the availability of state funds as well as the eligibility and feasible projects of state-funded versus federally funded infrastructure. This would likely not be achievable on federal-aid highways.

Strategy: Identifying Temporary or Permanent Replacements (≡)

For products that are not available or have long delivery lead times, states can consider alternative products offered by vendors. One state shared that when there is limited supply of a certain BABA-compliant component, vendors often share alternative options that are BABA-compliant and can serve a similar purpose. This requires designers and engineers to assess the feasibility of the alternative. It is easier to redesign around an alternative product when it is not core to the functioning of the system (e.g., enclosures, poles, or signage) or if it is in a lower-stress application (e.g., roads with lower speed limits).

Tracking and Certifying Vendors

Even if EV charging or ITS products are available, states must be able to verify that they are BABA-compliant and track where these products are used throughout projects. This allows states to ensure they and their awardees are complying with federal regulations and are prepared for any audits that may occur. Figure 5 summarizes the challenges and potential strategies that will be discussed in the following sections on tracking and certifying vendors.

Figure 5: Overview of Key Challenges and Potential Strategies from State Agencies—Tracking and Certifying Vendors



Challenge: Lack of Capacity to Verify BABA Compliance (↗) (≡)

Verifying vendor claims is time-intensive, and many state agencies have limited capacity. This is important because state agencies mentioned potential legal risk from manufacturers purposefully or accidentally misrepresenting their products as BABA-compliant. For example, one state mentioned that they have had instances where vendors do not understand federal rules adequately (e.g., understanding whether their product is a manufactured product or a construction material), which required back and forth between the state and vendor to ensure mutual understanding of the necessary requirements.

Challenge: Lack of Capacity to Track BABA-Compliant Procurement (≡)

Keeping track of products used in every federally funded transportation project can be overwhelming for states. Federally funded projects are spread throughout a state and can involve a complex set of components. One highly populated state mentioned that they can have hundreds of projects in progress at once. This makes it challenging for states to have visibility into what components are being used in awarded projects. This risk is compounded if a project developer purchases components in large volumes and stockpiles them for future projects, which makes it more difficult to track compliance over time.

Strategy: Implementing State-Led Certification (↗) (≡)

Some states with enough resources are proactively setting up verification processes. For example, one state agency reported that state law requires them to approve all traffic control devices bought, sold, or used in the state, so they proactively hired dedicated staff to verify that ITS equipment complies with BABA. To understand which suppliers offered BABA-compliant equipment, the state agency sends questionnaires to suppliers based on the regulation language, with the questions approved by FHWA upfront. Some other states have their own lists, and some reported that they worked with FHWA to explicitly approve their certification processes and guard against audit risk. To the extent that states can implement standardized certification approaches, this can also provide greater consistency for manufacturers working across states.

Spotlight: State Approved Product Lists for ITS

While not exhaustive, below are examples from three states—North Carolina [22, 23], Texas [24], and Florida [25]—which have created interactive databases or regularly updated lists of approved products. The lists indicate whether the state has deemed that the product is BABA-compliant based on their own processes.

North Carolina DOT Approved Products List and ITS and Signals Qualified Products List

2024 PRODUCTS MEETING YOUR SEARCH CRITERIA						
Group	Construction Item No And Description	Manufacturer Product No Assigned By DOT	Manufacturer	Manufacturer Model Number or Other Designation	Approved Construction Application	Meets BABA
ADD	OSDOMSFAD-PSF2024 Out of Street Detection, Doppler-Microwave Side-fire Advanced Detection	M5S0SDOMSFAD	MS Sedco	TC 26B	MVD	
ADD	OSDRDAVD-PSF2024 Out of Street Detection, Radar Dual Approach, Advanced Vehicle Detection	ECOOSDRDAVD	Econolite Control Products	EVO Radar Sensor Kit	MVD Approved for Vehicle Detection Only	No
ADD	OSDRDAVD-PSF2024 Out of Street Detection, Radar Dual Approach, Advanced Vehicle Detection, Communication HUB	ECOOSDRDAVDCH	Econolite Control Products	EVO Cabinet Hub	MVD Approved for Vehicle Detection Only	No
ADD	OSDWRFAD-PSF2024 Out of Street Detection, Wave Radar Forward-fire Advanced Detection	WAVOSDWRFAD	Wavetronix	SS200V	MVD	Yes
ADD	OSDWRTMSX3-PSF2024 Out of Street Detection, Wireless	EISOSDWRTMSX3	Electronic Integrated	SPIDER RM	MVD	

Texas DOT Material Producer List

Video Imaging Vehicle Detection System (For Intersection Stop Line Detection)		
Producer	Type/Model	Buy America Status
Econolite	Autoscope Vision System - Camera - Comm Manager (Power Dist. Panel/Comm/SDLC)Econolite Supervisor (Software for local/remote config)	Compliant
FLIR	Infrared System - Cam/Sensor - Power Distribution Panel - T1 X-Stream Edge Interface - PIM (Used with TS2 SDLC for additional 64 outputs) 4/0s xp Expansion Boards (For additional	

Florida DOT Approved Product List

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Go
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IPL
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Help

Product Type - Vehicle Detector-LiDAR
Specifications / 660: Vehicle Detection System / 034: Vehicle Detector-LiDAR
Sort: Product Name Ascending

1 Product Results

SIMPL – Intersection (APL Product)
Vendor: Seyond, Inc

- Model Number: Falcon FP
- APL Number: 660-034-001
- Specification: Vehicle Detection System
- Product Type: Vehicle Detector-LiDAR
- BABA Eligible: Eligible
- Limitation: BABA Approved for job lettings on or before December 31, 2026.
- Comment: Evaluated with firmware version 2.6.0. Evaluated for stop line/presence and advance detection.
- Fabrication: Manufactured Product

Strategy: Requiring Vendor Self-Certification (✓) (≡)

Some state agencies allow vendors to self-certify BABA compliance. This could include asking vendors for certifications for BABA-compliant components, which were described as in-depth documentation on the components and where they were manufactured. Other states simply ask for letters on company letterhead testifying to compliance. This requires less administrative effort from the vendors to document and prove the compliance of each part, while simultaneously giving state agencies less ability to confirm that their vendors' supply chains are properly documented and proven to be compliant.

One state mentioned that in their state, awardees are responsible for collecting certifications from manufacturers. When they share that information back with the state, it can help create an informal compliance list for use across other projects.

Strategy: Leveraging Digital Tools (✓) (≡)

Digital tools, including online platforms and AI-based tools, could help states set up robust tracking systems and manage data related to BABA compliance. For example, one state uses an online system for contractors to track project components, with all materials tied to codes in their approved product list. This ensures that contractors and the state are always prepared for potential audits and provides the state valuable up-to-date data on the supply chains they depend on.

Strategy: Sharing Responsibility with Awardees (✓)

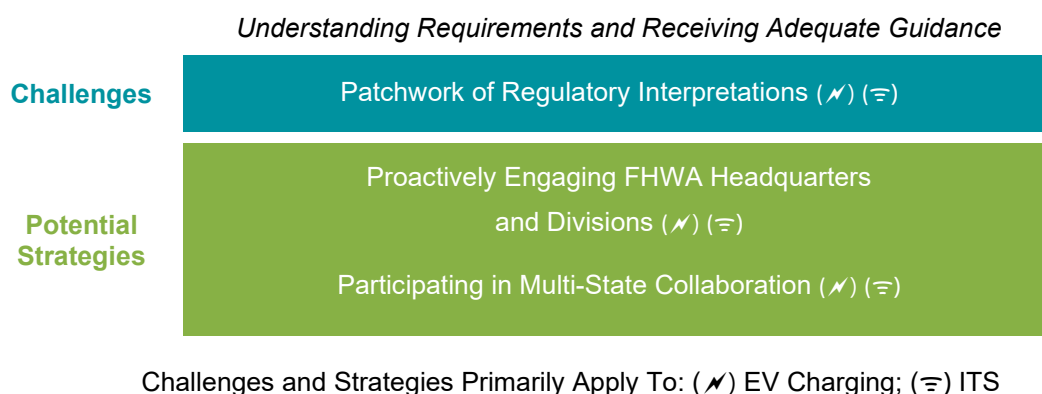
Some states share responsibility for procuring compliant equipment with project developers, particularly for EV charging. One state shared that they do not have staff capacity to help manage compliance for every project. They thus designate awardees as subrecipients of the federal funding—defined as a “non-Federal entity that receives a subaward from a pass-through entity to carry out part of a Federal program” [26]—which allows them to share some of the responsibility for compliance. According to the respondent state, this means that the subrecipient becomes responsible for compliance with relevant federal guidelines for projects and the state becomes a pass-through entity for funding. The respondent state also emphasized the importance of proactively discussing BABA compliance with the awardees to ensure they understand compliance requirements. EV charging is somewhat different from other federal highway projects, as states may vary in how directly they are involved with the process of building infrastructure or making purchases.

States have some flexibility in deciding how they interact with awardees and when or whether they require awardees to prove compliance. While many states request proof of compliance with BABA during the application process or early in contracting, one state chose to maximize flexibility by not requiring proof of compliance from awardees until projects are built. They claim this can allow for more time to find equipment or for manufacturers to become compliant.

Understanding Requirements and Receiving Adequate Guidance

The relationships between the FHWA, its Division offices, and state agencies are critical for states to understand the new requirements, set up processes, and remain in compliance. Figure 6 summarizes the challenges and potential strategies that will be discussed in the following section on understanding requirements and receiving adequate guidance.

Figure 6: Overview of Key Challenges and Potential Strategies from State Agencies—Understanding Requirements and Receiving Adequate Guidance



Challenge: Patchwork of Regulatory Interpretations (↗) (≡)

State agencies look to FHWA Headquarters and Division offices to help them understand and implement BABA requirements and reported that additional guidance in some areas would help with implementation. States indicated that they experience frequently changing federal guidance and would appreciate explicit direction in certain areas from FHWA or Division offices. Multiple state agencies mentioned that a lack of clarity from FHWA can hurt domestic manufacturing investments in their state and nationally.

For example, for EV charging, states emphasized that there is no guidance on how long an awardee has to construct a station and prove compliance. Also, grid upgrades are sometimes needed, and it is unclear whether equipment like transformers fall under the manufactured products rule. If equipment like transformers do require BABA, this can be challenging because states have less control over where utilities source equipment.

In some cases, there is a disconnect between FHWA and states on implementation. For example, some states indicated that existing BABA implementation expectations may not always align with the staffing capacity or resource constraints they face, particularly when it comes to central tracking of components and compliance. States indicated that FHWA Division offices are great partners, but they also vary in staff capacity to help them by providing clarification on BABA requirements. One state pointed to recent loss of staff and institutional knowledge at their FHWA Division office, which slowed down responses.

Strategy: Proactively Engaging FHWA (↗) (≡)

Working proactively with FHWA and Division offices can get ahead of potential roadblocks. States indicated that FHWA Division and Headquarters offices respond well to direct, clear outreach with questions. For example, one state highlighted that they worked with their FHWA Division office to review all funding request language upfront. Another state shared that presenting a preferred outcome to FHWA with clear justification and asking for input, as opposed to asking a “yes or no” question, allowed the state to be slightly more flexible with the location of its charging infrastructure than originally planned, helping to serve even more EV drivers in their state. Two other states said they had their Division offices review and approve the state DOT’s vendor certification process. As a result, they were able to streamline the remaining process of soliciting bids, identifying vendors, and putting infrastructure in the ground with minimal administrative burden.

Strategy: Participating in Multi-State Collaboration (↗) (≡)

Information sharing between state agencies and between FHWA Division offices can lead to more efficient and consistent BABA implementation. For example, some states suggested that better coordination between FHWA Division offices could help them provide consistent guidance and share lessons learned.

Multi-state forums (such as the Coalition or AASHTO) can be leveraged for states to talk to each other and identify common solutions, make comments, apply for waivers, and advocate for solutions that will benefit all states. One state mentioned that AASHTO has helped them learn how to engage more effectively with FHWA. There are also opportunities for states to share common certification approaches and waiver language, which can provide greater consistency for states and industry.

One state suggested that fact sheets or case studies on successful BABA compliance would also be helpful. These could include examples of how the rules apply to different types of projects that states see most often. These could be developed by the federal government or by external coalitions like the Coalition or AASHTO.

Conclusion

Early implementation of BABA requirements for EV charging and ITS shows that compliance can be administratively challenging yet achievable under the current requirements. The findings of this study point to several near-term priorities for individual states: identify supply chain gaps; build internal processes to identify and track compliant equipment; and engage actively with manufacturers, subrecipients, and FHWA. State agencies with limited resources can learn from other states and lean on existing third-party certifications and resources.

The findings also suggest coordinated action across states can help. State DOTs, multi-state coalitions, and federal partners should further explore shared supplier information, common certification approaches, reusable waiver language, and practical case studies that show how requirements apply in real-world projects. This could include creating multi-state approved product lists, although some states shared that a list maintained by the federal government would be the ideal solution. FHWA can support implementation by providing clearer and more consistent



guidance across division offices, while states can use multi-state forums to surface common supply gaps and elevate issues that warrant federal action.

Even if there are changes to BABA regulations in the future, these strategies still provide a basis for more robust and streamlined compliance to meet the goals of the requirements to provide domestic jobs and invest in U.S. manufacturing. Building up capacity to verify, procure, and track American-made products will prepare state agencies to award funding and build EV charging and ITS infrastructure quickly regardless of current or future policy uncertainty.

References

- [1] 117th Congress (2021-2022), "H.R.3684 - Infrastructure Investment and Jobs Act," 15 November 2021. [Online]. Available: <https://www.congress.gov/bill/117th-congress/house-bill/3684>.
- [2] Federal Highway Administration, "Buy America Final Rule," 25 November 1983. [Online]. Available: <https://www.fhwa.dot.gov/construction/contracts/831125.cfm>.
- [3] Federal Highway Administration, "Waiver of Buy America Requirements for Electric Vehicle Chargers, 88 FR 10619," 21 February 2023. [Online]. Available: <https://www.federalregister.gov/documents/2023/02/21/2023-03498/waiver-of-buy-america-requirements-for-electric-vehicle-chargers>.
- [4] Atlas Public Policy, "Clean Economy Tracker," [Online]. Available: <https://cleaneconomytracker.org/>. [Accessed 26 June 2026].
- [5] 95th Congress (1977-1978), "H.R.11733 - Surface Transportation Assistance Act of 1978," 6 November 1978. [Online]. Available: <https://www.congress.gov/bill/95th-congress/house-bill/11733>.
- [6] Federal Highway Administration, "National Electric Vehicle Infrastructure (NEVI) Program," [Online]. Available: <https://www.fhwa.dot.gov/environment/nevi/>. [Accessed 10 June 2026].
- [7] Federal Highway Administration, "Charging and Fueling Infrastructure Discretionary Grant Program," [Online]. Available: <https://www.fhwa.dot.gov/environment/cfi/>. [Accessed 10 June 2026].
- [8] Federal Highway Administration, "Notice of Proposed Modification of the Waiver of Buy America Requirements for Electric Vehicle Chargers, 91 FR 6721," 12 February 2026. [Online]. Available: <https://www.federalregister.gov/documents/2026/02/12/2026-02825/notice-of-proposed-modification-of-the-waiver-of-buy-america-requirements-for-electric-vehicle>.
- [9] Office of Information and Regulatory Affairs - Office of Management and Budget, "National Electric Vehicle Infrastructure Standards and Requirements - Buy America Standard for Electric Vehicle Chargers," July 2026. [Online]. Available: <https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202510&RIN=2125-AG29>. [Accessed 1 September 2026].
- [10] Federal Highway Administration, "Surface Transportation Block Grant Program (STBG)," 6 March 2025. [Online]. Available: <https://www.fhwa.dot.gov/specialfunding/stp/>.
- [11] Federal Highway Administration, "Congestion Mitigation and Air Quality (CMAQ) Improvement Program," 10 September 2025. [Online]. Available: <https://highways.dot.gov/iija/fact-sheets/congestion-mitigation-and-air-quality-cmaq-improvement-program>.
- [12] Federal Highway Administration, "Carbon Reduction Program (CRP)," 11 September 2025. [Online]. Available: <https://highways.dot.gov/iija/fact-sheets/carbon-reduction-program-crp>.
- [13] Federal Highway Administration, "Advanced Transportation Technologies and Innovation," 22 September 2025. [Online]. Available: <https://highways.dot.gov/iija/fact-sheets/advanced-transportation-technologies-and-innovation>.
- [14] U.S. Department of Transportation, "SMART Grants Program," 5 June 2026. [Online]. Available: <https://www.transportation.gov/grants/SMART>.
- [15] Federal Highway Administration, "Buy America Requirements for Manufactured Products, 90 FR 2932," 14 January 2025. [Online]. Available:

<https://www.federalregister.gov/documents/2025/01/14/2024-31350/buy-america-requirements-for-manufactured-products>.

- [16] American Association of State Highway and Transportation Officials, "Domestic Materials Self-Certification Form," [Online]. Available: <https://transportation.org/product-evaluation-and-audit-solutions/domestic-materials-self-certification-form/>. [Accessed 16 June 2026].
- [17] Electric Power Research Institute, "Vetted Products List," 5 June 2026. [Online]. Available: <https://www.epri.com/vpl>.
- [18] National Electrical Manufacturers Association, "Make It American™," [Online]. Available: <https://www.makeitelectric.org/nema-programs/make-it-american/>. [Accessed 16 June 2026].
- [19] National Institute of Standards and Technology, "Supplier Scouting," 14 July 2025. [Online]. Available: <https://www.nist.gov/mep/supply-chain/supplier-scouting>.
- [20] Federal Highway Administration, "Notice of Buy America Waiver Request," 18 February 2026. [Online]. Available: <https://www.fhwa.dot.gov/construction/contracts/waivers.cfm>.
- [21] Federal Highway Administration, "Advance Construction and Partial Conversion of Advance Construction," [Online]. Available: https://www.fhwa.dot.gov/ipd/finance/tools_programs/federal_aid/ac_pcac/. [Accessed 16 June 2026].
- [22] North Carolina Department of Transportation, "Approved Products List," [Online]. Available: <https://apps.ncdot.gov/vendor/approvedproducts/>. [Accessed 17 June 2026].
- [23] North Carolina Department of Transportation, "ITS and Signals Qualified Products List," [Online]. Available: <https://apps.ncdot.gov/products/QPL/>. [Accessed 17 June 2026].
- [24] Texas Department of Transportation, "Material producer list," [Online]. Available: <https://www.txdot.gov/business/resources/materials/material-producer-list.html>. [Accessed 17 June 2026].
- [25] Florida Department of Transportation, "Approved Products List," [Online]. Available: <https://path.fdot.gov/Specifications>. [Accessed 17 June 2026].
- [26] Federal Highway Administration, "5020.2," 14 August 2014. [Online]. Available: <https://highways.dot.gov/laws-regulations/directives/orders/50202>.
- [27] Florida Senate, "316.0745 Uniform signals and devices," 2025. [Online]. Available: <https://www.flsenate.gov/Laws/Statutes/2025/0316.0745>.

Appendix A: EV Charging & ITS One-Pagers

(Begins on the following page)

Challenges and Strategies for Build America, Buy America (BABA)-Compliant Electric Vehicle (EV) Chargers

	<i>Finding & Procuring Domestic Equipment</i>	<i>Tracking & Certifying Vendors</i>	<i>Understanding Requirements & Receiving Adequate Guidance</i>
Challenges	Lack of Domestic Suppliers: Identifying suppliers with compliant equipment is a resource-intensive process, which is especially challenging for states with limited resources. High Demand for Products: Where there are domestic suppliers available, there are often bottlenecks and long lead times.	Lack of Capacity to Verify BABA Compliance: Verifying vendor claims is time-intensive, and many state agencies have limited capacity.	Patchwork of Regulatory Interpretations: Federal guidance sometimes lacks clarity in certain areas, and subject to change.
Potential Strategies	Mapping Supply Chains: States are mapping out where there is availability or gaps in domestic supply chains. Pursuing Waivers: States can request waivers from FHWA, but approvals are uncertain. Focusing on High-Impact Equipment: Efforts to onshore supply chains can focus on subcomponents that make up the largest share of product costs. Strategically Allocating Funding and Advance Construction: Some states are exploring ways to minimize the uncertainty of future policy changes related to BABA requirements.	Implementing State-Led Certification: Some states are proactively setting up verification processes. Requiring Vendor Self-Certification: Some states allow vendors to self-certify BABA compliance. Sharing Responsibility with Awardees: Some states share responsibility for procuring compliant equipment with awardees. Leveraging Digital Tools: Online platforms and AI-based tools could help states track and manage data.	Proactively Engaging FHWA Headquarters and Divisions: Working proactively with FHWA and Division offices can get ahead of potential roadblocks. Participating in Multi-State Collaboration: Information sharing between state agencies and between FHWA division offices can lead to more efficient and consistent BABA implementation.

Challenges and Strategies for Build America, Buy America (BABA)-Compliant Intelligent Transportation Systems (ITS)

	<i>Finding & Procuring Domestic Equipment</i>	<i>Tracking & Certifying Vendors</i>	<i>Understanding Requirements & Receiving Adequate Guidance</i>
Challenges	Lack of Domestic Suppliers: Identifying suppliers with compliant equipment is a resource-intensive process, which is especially challenging for states with limited resources. High Demand for Products: Where there are domestic suppliers available, there are often bottlenecks and long lead times. Interoperability of Parts and Software: When systems need to be expanded or parts replaced, domestic products do not always integrate seamlessly.	Lack of Capacity to Verify BABA Compliance: Verifying vendor claims is time-intensive, and many state agencies have limited capacity. Lack of Capacity to Track BABA-Compliant Procurement: Keeping track of products used in every federally funded project can be overwhelming.	Patchwork of Regulatory Interpretations: Federal guidance sometimes lacks clarity in certain areas, and subject to change.
Potential Strategies	Mapping Supply Chains: States are mapping out where there is availability or gaps in domestic supply chains. Pursuing Waivers: States can request waivers from FHWA, but approvals are uncertain. Identifying Temporary or Permanent Replacements for Components: For products that are not available or have long lead times, states can consider alternative products offered by vendors. Focusing on High-Impact Equipment: Efforts to onshore supply chains can focus on subcomponents that make up the largest share of product costs. Strategically Allocating Funding and Advance Construction: Some states are exploring ways to minimize the uncertainty of future policy changes related to BABA requirements.	Implementing State-Led Certification: Some states are proactively setting up verification processes. Requiring Vendor Self-Certification: Some states allow vendors to self-certify BABA compliance. Leveraging Digital Tools: Online platforms and AI-based tools could help states track and manage data.	Proactively Engaging FHWA Headquarters and Divisions: Working proactively with FHWA and division offices can get ahead of potential roadblocks. Participating in Multi-State Collaboration: Information sharing between state agencies and between FHWA division offices can lead to more efficient and consistent BABA implementation.