Looks like we're good to go and
will launch.

Right into this here.

I can get my screen, there we go
alright. So welcome everybody to

the second webinar that we're
hosting today. This morning at

10:00 AM we did the first
installment of the build America

by America. The update on the
implementation. We're holding 2

identical webinars. Ryan
presented the first one. I'll be

taking the lead on this one. And
the purpose of doing that is

just to be able to provide a
better accommodation to the

different time zones.

We have across the country, so
there the content is identical

but just providing greater
opportunity for people and to

accommodate schedules. Now some
of this information that you'll

be seeing here today is similar
to what we presented over the

summer at the first installment
of our Baba Webinar. It's

becoming I guess, maybe a bit of
a series, but a lot of that

information really sets the
stage for where we are today and

that information is all still
relevant. And so we wanna make

sure we have that discussion.

You know, additionally, if there
were people who maybe are new to

your agency or the program that
you're working in and at the

time you weren't able to attend
those webinars, this will

provide you that overview as
well.

So let's take a look at the
agenda for what we want to

accomplish today. The first
thing we'll do is review the

legislative history and you
know, fairly recent legislative

history for the bipartisan
infrastructure law and what

brought Baba to into play for
our awards.

Additionally, we'll talk about
the implementation, timeline and

some of the key dates that
impact our financial assistance

awards.

We'll also define infrastructure
in terms of federal financial

assistance. Now, we're not
talking about, say, a textbook

definition or something that you
could look up in the dictionary,

but how is this term
infrastructure defined by

Congress and OMB for financial
assistance?

Additionally, we'll look at the
specifics of those domestic

procurement request, domestic
procurement preferences that are

included in Baba and what those
requirements entail. And then

we'll also take an overview of
the approved waivers. Now,

that's both the general
applicability waiver that has

now passed, but also to new
waivers that have recently come

into play. And we suspect that
that's part of the reason at

least why there is high interest
in these two webinars is to get

an overview of some examples.

Of those two new Department of
Interior waivers.

Then finally we will close with
some open question and answer

sessions to answer any of those
uh, burning questions that you

might have.

Alright, so let's launch right
into that legislative background

to understand how we got to our
present day here on March 22nd

of 2023.

So the infrastructure investment
and JOBS Act was signed into law

back on November 15th, 2021. So
about a year and a half ago,

this is commonly been referred
to as the bipartisan

infrastructure law and we love
our acronyms. So we commonly

will call this the BIL.

Now included in that bipartisan
infrastructure law was this

build America by America Act.
And we also have made an acronym

for that, which is Baba and
specifically what Baba requires

is that no later than May 14th,
2022. Each federal agency, the

Shell, ensure that none of the
funds that have been made

available for financial
assistance programs for

infrastructure.

So those financial assistance
programs involving

infrastructure, none of those
funds may be obligated for a

project unless all of the iron,
steel, manufactured products and

construction materials that are
used in that project are

produced domestically here in
the United States. So you can

see this is all language coming
specifically from the public

law.

The BIL, which is indicated this
reference on the scroll here in

the bottom right.

Now the purpose of this Baba
Act, the build America, Buy

America Act it both is it
affirms and it is consistent

with at least one executive
order 14 double 05 and that

executive order indicated that
there's a priority to use

financial assistance awards to
maximize the use of goods

products in other materials that
have been produced domestically

here in the United States. Now
there's three sub bullets.

That that comprise this from the
executive order and the first of

those is a desire to increase
domestic supply chains. So

internally within the United
States, if we could increase the

production of our supply chains,
it should make these materials

more readily available both for
financial assistance projects,

but just broad production and
procurement in the United

States, if we're able to
increase the supply chains, that

will also make those.

By James more resilient, as we
see from time to time, there's

fluctuation in demand for
certain types of of goods and if

we can make those supply chains
more resilient, we'll be able to

withstand some of those
fluctuations that we see in the

market over time.

Additionally, we want to provide
demand for domestic producers.

So if we can increase those uh,
domestic productions, that's

that's good for the the economy
and our businesses here in the

United States.

Now, additionally, the Act
provides statutory authority to

OMB or the Office of Management
and Budget, and it created this

made in America office and this
office within OMB has been

integral in this process of
rolling out the requirements of

Baba and is providing them
authority to maximize and

enforce compliance for
recipients to ensure that

domestic procurement is
occurring under these awards.

Additionally, that made in
America Office is also the final

destination for the waiver
request that are sent up through

our our inbox that will
reference later later on here in

the presentation and then also
going up through Department of

Interior ultimately being
reviewed and approved by OMB.

So we first talked about the the
what is Baba and let's now talk

about when these requirements
took effect. So as we noted

earlier, the bipartisan
infrastructure law was passed on

November 15th, 2021 and within
this the Boba requirement, those

domestic procurement preferences
took effect no later than 180

days after the bill became law.
This means that those domestic

procurement requirements took
effect on May 14th of 2022.

So you may then be asking the
question how does this impact a

program award that includes
infrastructure?

So this means that beginning May
14th, 2022, that any new award

and amendment to add funds to an
existing award, a renewal award

or an award that has a change in
scope that involves

infrastructure would now be
subject to these domestic

procurement preferences. Now
let's breakdown specifically

what that means for a specific
award. So if you enter a new

financial assistance award that
began on May 14th, 2022 or

later.

And it includes infrastructure.
That award would be subject to

these Baba requirements, those
four domestic procurement.

If you had an award that began
before May 14th, 2022, but you

submitted an amendment to either
add funds to that existing award

or if you added additional
project or something to the

scope of work that involves
infrastructure in those

scenarios, then that award would
also be subject to these

domestic procurement
preferences.

Finally, if there was a renewal
award which may not be as common

in some of our whisper
administered programs, if you

had a renewal award, those would
also be subject to boba

requirements.

Now, additionally, it's
important to understand what

project means in terms of these
Baba requirements and a project

means an activity that's related
to the construction, alteration,

maintenance or repair of
infrastructure in the United

States. So this is recognizing
that there may be a grant award

that is not completely
infrastructure related, but

there's an element of that award
within a given project of the

award that would be considered
infrastructure.

Alright, so let's talk about the
temporary waiver that was in

place for Department of Interior
awards. DUI submitted a general

applicability waiver for all
programs that lasted six months.

This was submitted up through
OMB, which ultimately approved

it on July 13th of 2022, and
then that waiver was in effect

from that approval date for six
months ending January 12th of

2023.

Now during that time, we held
the initial webinar series and

we had made the suggestion to
recipients to really use that

six month waiver period to
procure to to prepare your

internal policies and procedures
related to procurement such that

you could comply with the new
boba provisions for domestic

domestic procurement. This is a
recognition by Department of

Interior and OMB agreed that it
was going to take recipient some

time to update policies and
procedures.

Because this is a pretty
significant change for the way

that materials uh would need to
be procured under awards.

Additionally, during that time,
recipients may have had the

opportunity to submit a specific
waiver request up through OMB if

they so chose.

So we've talked about the
timelines, but sometimes it's

helpful to get visual to really
understand the timeline that

we're talking about here. So as
you see over on the left,

November 15th, 2021 is when the
bipartisan infrastructure law

was signed and became law. And
again, this included those Baba

preferences within the Bhil.

Then on May 14th, 2022, Baba
became applicable to all new

awards and amendments that we're
going to add funds or add funds

to existing awards or adding
infrastructure to the scope of

work of that particular award.
So what you'll note here is that

this is denoted by this yellow
line that extends all the way

into the future and still exists
here where we sit in present

day.

On June 6th 2022, Fish and
Wildlife Service began to add

specific Bob of terms and
conditions to all new awards and

amendments. If those amendments
were to add funds for existing

awards that involved
infrastructure. So you'll note

that it took a little bit of
time to develop that specific

language and then get that
uploaded into grant solutions

such that federal awarding
agencies could in fact include

these special terms and
conditions onto awards.

So you'll note that there's
there is this three-week period

in which Baba requirements were
applicable, but it may not have

been specified in your ward
terms and conditions. So you

just wanna be clear that there
was this brief period in which

there while Bob was required of
the awards, it may have not been

specified in those terms and
conditions.

Moving forward, if we look at
that Department of Interior

General applicability waiver,
what you'll see here is that

this this is represented in this
red bar that's sitting on top of

the Baba requirements. So the
waiver didn't remove or

necessarily make Baba not
applicable to these awards, but

it temporarily suspended those
domestic procurement preferences

for applicable awards during
that time period. Again this was

that time period.

That allowed recipients to
consider or develop additional

waiver requests and to update
their policies and procedures

related to procurement.

So you'll note here this final
tick mark on our timeline the on

January 13th of 2023. This
general applicability waiver

expired and then Baba became
applicable to all of those

awards that involved
infrastructure project that

began or were amended on or
after May 14th, 2022.

Now, while you're looking at
this and you might be thinking,

well, you know this is all in
the past. Why does it matter? It

is important to point out that
there could be awards in play

out there that spanned the
entire time frame that you're

looking at here on the screen as
well as have relation to these

new waivers that we'll be
talking about later in this

presentation.

Alright, so let's take a step
back and look at how the public

law, the bipartisan
infrastructure law, actually

defines this word
infrastructure. And it means at

a minimum, the structure is
facilities and equipment for in

the United States, roads,
highways, bridges and it

continues on with a very long
list of things that would be

considered infrastructure. And
so this is really more of

providing examples for what
infrastructure means in terms of

the bipartisan infrastructure
law.

Rather than providing a very
tight definition for it now, as

you look at these examples, I
think we could all agree that

these are perfect examples of
infrastructure. But when you

think about the types of awards
that we work with in Fish and

Wildlife service, a lot of these
don't apply like airports or

broadband infrastructure for
examples. But there are

scenarios where you could
envision a Fish and Wildlife

Service award falling into
these.

These categories, such as roads,
facilities or when we skip down

to the bottom, in particular
those buildings in real property

examples that are oftentimes
funded through Fish and Wildlife

Service awards.

So as we move forward, OMB
provided some additional

guidance to to clarify the the
Congressional intent and it

helps us define what
infrastructure in our world

actually looks like. So federal
agencies are instructed to

interpret this term
infrastructure broadly and

again, using those examples from
our previous slide as more of an

illustrative example of what
would be included as

infrastructure. So this is
really OMB telling us to.

To take a broadview of what
could be considered

infrastructure and not look at
it from a very narrow or

conservative viewpoint.

Additionally, they provided some
guidance of what could be a

greater or lesser indicator of
infrastructure, so you could

consider these following
questions as you try to think to

yourself is part of this award
an infrastructure project under

these Baba preferences?

So the question you could ask
is, is this serving a public

function? Is it publicly owned
or operated? And is it providing

a good or service to the public?

Or additionally, could this be a
privately operated facility or

or construction project, but
it's done so on behalf of the

public?

And then ultimately, I think the
overarching question to ask

yourself is this a place of
public accommodation that is

serving a public function? All
of these are examples that would

be a greater indicator of
infrastructure.

Now conversely, and it's not to
say this is A1 size fits all

approach, but if the project
were to be privately owned or

not open to the public, this is
a lesser indicator of

infrastructure in terms of Baba
applicability as instructed by

OMB.

Alright, so if we take a another
step down to think about what is

infrastructure in our world. So
examples of projects that might

be infrastructure, say a
wildlife management area where

you're providing the public
opportunities to hunt or other

passive recreations, most of our
states have a wide variety of

wildlife management areas that
are open to the public and

serving that public purpose in
some form or function.

Another another example would be
a boat ramps that are providing

access to the waterways of the
United States, a fishing Piers

or platforms. As you can see in
this example in the picture over

here, shooting ranges that are
providing.

Or pass or recreation
opportunities for our target

shooters. And then as you keep
going down the list, you'll see

examples like dams, docs, marine
pumpout stations, floating

restrooms, all sorts of
facilities that would be an

example of providing a public
accommodation across the

country.

So as you start to look down
this list and consider the types

of projects that you may have
under your awards, you can ask

yourself the questions that OMB
has provided us through that

guidance document. Is this
serving a public purpose? Is it

publicly owned and operated, or
is this a place of public

accommodation? If you could
answer yes to any of those,

you're likely falling into a
greater indicator of a public

infrastructure project.

So if we look specifically at
the picture that we have here

and I believe this comes from
the great state of Kentucky,

where my friend Ryan Oster is
from, but you can see this

fishing pier is publicly, we're
well, let's make the assumption

that this is publicly accessible
and you'll just have to trust me

in this case that it is is
providing an opportunity for the

public to go out there and maybe
fish do some bird watching or or

just enjoying the nice view.

And then if you take it down a
level, you look at this and you

consider if this is a public
infrastructure project, what are

the types of materials or costs
associated with this project

that would be covered by these
domestic procurement

preferences. So for example,
there's likely iron and steel

associated with the support
system here, maybe that's part

of the railing or the braces
that you can see going down

underwater.

Are you also have these, uh
black flotation devices that are

keeping the peer afloat? That
would be an example of a

manufactured product.

And then also likely it's not
straight up wood that we have

here, but it's probably some
sort of composite that would

also be considered a
manufactured material that would

also be subject to these
domestic procurement

preferences. Finally, there's
likely some nuts and bolts and

potentially nails that are going
into to constructing the

finishing touches of this pier.
And those again would be

included under infrastructure.

More specific as to what costs
are subject to Baba and this

means that domestic procurement
preferences are applying to the

articles, materials and supplies
that are incorporated into an

integral part of, or a fixed to
an infrastructure project. So

specifically it covers the iron
and steel that would be used in

a project, including those
manufacturing or finishing or

molding processes thereof.

A manufactured project product
that was manufactured in the

United States and additional
clarity here that the cost of

the components that were
domestically produced is 55% or

greater of the total cost of all
components for the manufactured

product. Now what we're saying
here is not that of a total

projects cost, 55% of these
materials need to be BOBA

compliant. It's of a single
manufactured product. So for

example from that last slide,
those black floats.

Underneath the pier that 55% of
the total cost of the components

in that single product were
domestically produced. So here's

an example that we will speak to
this later where recipients is

we highly recommend you to
obtain documentation or

certification from vendors when
you're purchasing these type of

materials showing that they are
compliant with this 55% or

greater requirement.

Then finally, those construction
materials that are included in

the manufacturing process or or
thereof, so meaning the those

bolts the nuts and bolts and the
nails that may be used in

construction projects.

Also, the question is what is
not subject to Baba and examples

of this would be tools or
equipment and supplies that are

brought to a construction site
but are then later removed once

the project is completed. So an
example I would offer of this is

let's say that you have a
construction project and you

hire a third party vendor to
come and complete this project.

The tools and equipment and
supplies that that contractor is

bringing in don't necessarily
need to be compliant with Baba.

You they would not have to
provide that documentation to

you. It's only being used to
construct that project and

they're later being removed from
the site.

Additionally, equipment or
furnishings that are used at the

site to complete infrastructure,
but they're not an integral part

of the structure itself and
they're not permanently affixed

to it. An example for this could
be the scaffolding that's used

for construction project or some
sort of renovation to improve

the useful life of a structure
that scaffolding doesn't need to

be compliant with Baba. It's not
an integral part of the

structure and it's later being
removed once the project has

been completed.

Talk about what the waiver
criteria is here. A federal

agencies and and I, I should say
that this this is broadly the

the guidance from OMB and so
this applies to all waivers that

may be submitted up the chain to
OMB. So federal agencies may

waive Boba requirements when one
of the following three scenarios

is in play. The 1st is a public
interest waiver and this is

stating that applying domestic
procurement preferences.

Would be inconsistent with the
public interest. Now certainly

you would need to make a strong
justification for why this is,

but two of the our two new
waivers that will speak to in a

moment fall under this public
interest waiver, and this is the

small grants waiver and the de
minimis waiver.

Additionally, the the other two
is nonavailability waiver and

this states that the covered
products are not produced

domestically in sufficient or
reasonable quantities or of a

satisfactory quality to get the
job done or achieve those grant

funded objectives as defined in
your scope of work.

The next is an unreasonable cost
waiver, and this is saying that

the use of domestic products
would increase the overall

project cost in excess of 25%.
So I wanna point out that in the

second second two waiver
criteria the non availability

waiver and the unreasonable cost
waiver in these scenarios, if

you were considering.

I use applying for a waiver. You
would certainly wanna have

documentation to show and
document that a certain product

is not available domestically or
providing documentation that a

procuring them domestically
would in fact increase those

total project costs in excess of
25%. So just the recommendation

to do your due diligence and
document accordingly. If you're

considering a waiver under
either of these two criteria.

OK, so do I recently obtained
new two new Baba waivers so Fish

and Wildlife Service staff
worked with department staff in

concert to help develop these
two new waivers, the first of

which was the small grants
waiver. And this covers all

forms of federal financial
assistance.

And then the second is the the
minimus purchases and we'll go

through the details of what each
of these waivers of what these

two waivers afford to certain
recipients.

So both of these waivers were
posted for public comment on

December 22nd, 2022, and they
went through their standard

comment period where the public
could offer comments in support

or against the proposed waivers.
Those comment periods closed on

January 6th of 2023 and we have
great news to report as I think

many of you are aware that these
waivers were both approved on

February 21st, 2023 with some
minors.

Well, some changes and we'll
talk about what those changes

were compared to what you may
have seen posted online for

review. And we wanna point out
that these waivers are in effect

not later until or up until
February 20th of 2028. So

they're in effect for up to five
years. But also note that OMB

has indicated that they may be
reviewed periodically and that

date of February 20th of 2028
may change. So.

Note that the maximum amount,
maximum amount of time that they

would be in play is that five
year period until February 20th

of 2028.

Alright, so let's look
specifically at the at the small

grants waiver and this permits
the use of non domestic iron

steel manufactured products and
construction materials for small

financial assistance awards. And
you'll note the underlying in

these sections on purpose that
meet the following standards and

the first is that the total
award amount. So the total award

does not exceed the simplified
acquisition threshold which is

currently $250,000.

So if you have a federal
Financial assistance award that

is is 250,000 or less, this
small grants waiver could apply.

Now this award amount, the other
factor this is that the small

grants waiver applies if the
total award amount is not

anticipated to exceed that
simplified acquisition threshold

for the life of the award. So
what this means is let's say you

had an award in play that was
$200,000, it's below that

simplified acquisition
threshold. But you know that six

months down the road, you're
going to increase those costs to

say $500,000 or something that's
over the simplified acquisition

threshold.

In that scenario, the small
grants waiver would no longer be

in play for your particular
award.

Now we have these, these, uh,
these sections underlined

because it's important to point
out that there was a change from

the originally proposed waiver
that went up the chain for

consideration to OMB. Initially,
it was for the federal share

would not exceed the simplified
acquisition threshold. So

meaning that that federal share
of your your ward. And then if

there was any match or cost
share component, it may have

been over that $250,000. But
what OMB came back and said is

that they wanted to consider
this small grants waiver when it

was.

Looked at the total award amount
not exceeding the simplified

acquisition threshold, so that
is a change from the waiver says

they were originally proposed
and we wanna make sure that we

point that out for the record
here today.

So in the purpose for this small
grants waiver, again of this

came under that public interest
waiver was to assist small or

disadvantaged communities and
recipients and reduce that

administrative burden that could
commensurate with the funding

amounts. So I think this is a
recognition that there are

oftentimes small projects out
there on the landscape that have

a big impact on the local area
in which they're they're being

executed. So this provides some
flexibility.

Or those types of smaller
projects, and reducing that

administrative burden.
Additionally, there may be

recipients and and may be
disadvantaged. Isn't the the

right word to use here, but a
recipient out here who doesn't

have the capacity to go through
the process of updating

procurement procedures for
domestic procurement

preferences. And there are
typically only receiving these

smaller awards, so if that total
award comes in under the

simplified acquisition
threshold.

Currently, that $250,000, these
are awards that could be subject

to the small grants waiver.

Again, for both of these
waivers, the duration being five

years from that approval date.

Some examples that we've cooked
up here in training branch and

and and I also wanna point out
and I may have forgotten to say

this earlier on in the
presentation is that if these

financial assistance, the boba
preferences are applying to all

financial assistance, it's not
just those projects that may

have been funded through that
bipartisan infrastructure law.

So any financial assistance as
defined in two CFR 200 is

subject to these domestic
procurement preferences and

that's how all of these whisper
administered.

Programs that we're most
commonly referring to here do

come into play for the boba
requirements.

So this first scenario that will
present to you is a canoe access

site award and in this scenario
the entire award will be

contracted out to build this
access site. So the total award

that we have here is 125,000 and
you'll see that there's a

federal share in a map share
here. And so the question would

be does this award qualify for
the small grants waiver? Now

we'll ask that you not actually
verbally respond or put it in

the chat, but we just.

I want you to answer to yourself
here. So does this award apply

or qualify for the small grants
waiver? And the answer to that

is yes. Now remember that the
total award has to be the

simplified acquisition threshold
or less to apply. And as you see

here, the total award is
125,000, which is below the

simplified acquisition
threshold. So in this scenario,

the small grants waiver would
apply.

The next scenario we have here
is a boat ramp construction

where the entire award will be
contracted out for the the

construction of the ramp.

The total award amount here is
$500,000. Again, you'll see

there is a federal share and a
map share. So does this award

qualify for the small grants
waiver?

Mario, it would not because the
simplified acquisition threshold

being 250,000, this total award
exceeds that of $500,000. So

here's an example where those
domestic procurement preferences

would in fact apply to the
award.

People we have is for statewide
O&amp;M of operations and

maintenance of wildlife
management areas. So under a

larger award, the state has
multiple or smaller

infrastructure construction and
maintenance projects. It's a

common recognition that there's
a lot of activities that are

happening across the various
wildlife management areas in the

state. So this is a very real
life example to many of our

recipients.

So for these projects, one of
the activities or projects

involves $10,000 worth of
maintenance to wildlife

management area fencing. So the
total award that we have here is

$4 million for the entire
statewide O&amp;M grant. But

when we're looking in this
example, we're just looking at a

$10,000 maintenance project for
fencing and this would be

considered infrastructure.

So the question now is, does the
fencing component specifically

qualify for this small grants
waiver?

So the answer here is no. So
while you may have initially

thought that, well, there's
$10,000 that's below the

simplified acquisition
threshold, what takes hold here

is that total award, if it's $4
million for the total grant

award and that's exceeding the
simplified acquisition

threshold, the small grants
waiver does not apply in this

scenario.

The last one we have for the
small grant waiver examples is

the expansion of a public target
range. So the state receives a

federal award to expand the
shooting range for a total of

$220,000. But then the state
turns around and goes out to bid

for this project and that low
bid comes in at $260,000. So now

recall that the state initially
entered an agreement for

220,000.

Which is below the simplified
acquisition threshold, but now

that bid comes back at two, six,
260,000 and we're making the

assumption that the state is
going to be increasing the cost

of that award. So does this
award qualify for the small

grants waiver?

In this in in this scenario of
the answer is no, because now

the cost have increased for the
total award in excess of

$250,000.

Alright, so that we're that was
our example for the small grants

waiver, but let's talk about the
Dominus waiver, and I'll admit,

when I first looked at this one,
it was a little bit confusing to

me. But let's see if we can
break this all down the de

minimis waiver allows for a
recipient to waive up to 5% of

the total applicable project
costs and up to a maximum of

$1,000,000. And So what this is
saying is that if you have

material costs that are subject
to Baba and that's what we're

referring to as applicable
project.

Cost. So costs that are
otherwise subject to Baba that

up to 5% of those costs could be
procured non domestically so

long as that does not exceed
this maximum of $1,000,000. So

what this is really a providing
recipients and opportunity for

is not necessarily to write in
this the minimis information

into say a procurement contract,
but it does afford you some

flexibility where if you were
going out to bid for a large

project.

And the vendor comes back and
says that, you know, hey, we can

get most of these materials
domestically and and comply with

Baba, but there's this small
section or segment of the

materials that are too difficult
to procure for one reason or

another. So this is the example
of it affords you the

flexibility to procure up to 5%
non domestically and to keep the

project going and not have to
stop and try to find those

materials or iron and steel
domestically.

So again the the this is gonna
last for five years. This de

minimis waiver and again in that
public interest waiver assisting

small and disadvantaged
communities and reducing that

administrative burden relative
to the funding amounts.

Alright, so let's look at a
couple examples that we've put

together for these Dominus
waiver purchases. The first

scenario again relates to a
public target range expansion,

so we're recipient receives an
award and then ultimately plans

to sub award it to expand an
existing target range to

increase public access
opportunities. Now the total

award is $500,000, but 250,000
of the total project costs.

Are those that would be subject
to the domestic procurement

preferences?

So does the Dominus waiver
apply, and if so, how much?

So in this scenario, de minimis
could apply and then you have to

figure out how much of it could
apply. So note that there's

250,000 in total project costs
that are otherwise covered by

the domestic procurement
preferences. If you multiply

that 250,000 by 5%, you get
$12,500. So this is the amount

that 12,500 that could be
procured non domestically when

applying the Dominus waiver.

So in this scenario you you may
say to yourself, well, it's not,

it's not giving me that much
flexibility it it's in the

dollar amount isn't really high
in the scenario. But I go back

to the example earlier, if you
enter contract with a vendor and

they're having trouble procuring
some smaller amount of the

products needed to complete the
project, this gives you some

freedom and flexibility to move
forward with that project so

long as it doesn't exceed that
5%.

Scenario is a boating
infrastructure project. So let's

say that a state receives a Tier
2 big award to construct a

transient boat dock facility
that has a number of components.

So docks appears, gangways,
restrooms, and other utilities.

The total award is $4 million.

But 2.5 million of those total
project costs are those that we

would be subject to the domestic
procurement preferences. So does

the diminished waiver apply and
if so, how much?

So again, in this case the
minimum supplies, but only for

certain amount, so that 2.5
million of total project costs

that are subject to Imbaba
multiply that by 5% and it gives

you $125,000. So here you see as
the total cost of infrastructure

of covered infrastructure cost
goes up, the amount that you

could have procured non
domestically used in the Dominus

waiver goes up, but again not to
be in excess.

Of 5% of those costs.

Alright, scenario #3 and and I
think this is a pretty common 1A

state is going to construct a
new fish hatchery and they're

going to do this under a sport
fish restoration award. The

total grant cost is $27 million
and 23 million of those total

project costs are otherwise
subject to the domestic

procurement preference.

So does the de minimis waiver
apply, and if so, to how much?

So we have our total award of 27
million.

23 million is those costs that
would be subject to Baba if you

multiply 5% into the 23 million,
what you get is 1 million,

$150,000. So while that's 5%
recall the rules for this to

minimus waiver that it's 5% at a
Max of $1,000,000. So this is

the example where it's not the
5% that you're factoring in here

because it exceeds $1,000,000.

So in this scenario, you're
capped at $1,000,000 of those

costs that could be procured non
domestically.

Best example is is a bit more
complicated, but we do think

it's important to to to play
this one out because there could

be many grants and play out
there for larger projects,

larger grant awards that maybe
have multiple projects within

them. So in this example we have
a statewide operation and

maintenance grant for wildlife
management areas. The state

receives a grant, the total cost
of that grant is $6 million.

160,000 of those total costs are
for three different

infrastructure projects. All
that would have their cost

subject to Baba. So you see here
you have your 6 million for your

total award and then we've
broken down project one, project

2 and Project three that have
separated costs of $40,000 for a

storage shed, 50,000 for a
restroom and 70,000 for ADA

hunting structures.

So in this scenario, does the de
minimis waiver apply?

So here, yes, it does apply and
because this is factoring in

cost at the project level, we've
broken it down consistent with

what we see above here. So in
project one for the storage

shed, 5% of 40,000 is 2000
dollars, 5% of 50 is $2500 and

then 5% of 70,000 would be 3500.
So this is showing that within

those projects you have some
flexibility to only procure.

To procure nondomestic materials
up to 5% based on that total

project cost that's nestled
within a larger grant award.

So in closing, we wanna point
out some of our our thoughts or

or best management practices and
it's clear that domestic

procurement preferences are
going to be a priority. This was

reaffirmed through these
additional waivers and also in

the president's state of the
Union where he is really a

driving home. This idea of
domestic procurement

preferences. So we.

Really wanna encourage you all
to to consider how how you're

going to be able to comply with
these domestic procurement

preferences down the road,
knowing that the general

applicability waiver has expired
and also that the small grants

waiver and the Dominus waiver.

Only have up to A5 year
duration. So for those small

grants waiver, we think that
there's utility for these lower

dollar procurement
infrastructure awards, but we

would cost it you all for those
types of projects where you may

have some increase in cost. So
you could probably safely apply

that small grants waiver if you
have a project that the total

award is 200,000 or less. Now we
pointed out that the simplified

acquisition threshold of 250,000
is currently the limit.

But we point out that you could
oftentimes have a project where

costs increase over time, and so
if you had a 15% variance, if

you had a total award that was
initially 210,000, there was a

possibility that those costs
could increase to the point that

you would exceed $250,000. So
we're just saying if you want to

be cautious in this way, you may
consider those projects that are

less than 210,000 to be sort of
the safe play.

If you wanna be more
conservative about when to apply

that small grants waiver.

Additionally, as we move
forward, uh grants that are are

subject to Baba and when these
waivers are in play, will be

part of the audit universe for
our OIG audits. So as part of

these audits are reviews, they
may be looking for examples

where projects are being
piecemealed together with the

possibility that the purpose of
doing so was to circumvent these

domestic procurement
preferences. So you know, an

example of this might be if
there's a boating access site.

That overall would cost say
$1,000,000 to complete in whole,

but you see that a recipient is
saying we're applying for one

award that's going to be 200,000
to do the ramp, another 200,000

for the parking lot and doing
separate awards such that you're

below that $250,000 threshold.
Those are the types of scenarios

that we would recommend you
guard against and take a more

holistic view of compliance with
Baba and applying these waivers.

A carefully.

Regarding the Dominus waiver,
I've mentioned this earlier, but

this is a great opportunity for
infrastructure projects to be

bid using domestic procurement
as a whole, but this dominicis

waiver gives you that
flexibility where if a vendor

comes back and says that they're
not able to get certain products

domestically for one reason or
another, this is the opportunity

to use that to minimus waiver
such that you can keep the ball

rolling and not have to halt.

Production or getting that
construction project underway?

Again, this is meant to allow
some flexibility if there's a

certain item or a lower cost
item that's not available

domestically or in a limited
supply, there could be various

scenarios that are coming into
play here.

All right. Well, with that, that
is our the formal part of our

our presentation. Again, I thank
you all for your interest in

being here today and uh, happy
to take any questions you might

have.

All right. Great job, Mike.