APPENDIX F: FEDERAL REQUIREMENTS

1. Build America, Buy America (BABA)

All projects are subject to the domestic sourcing requirements under the Build America, Buy America (BABA) provisions of the Infrastructure Investment and Jobs Act (IIJA) when using federal funds for the purchase of goods, products and materials on any form of construction, alteration, maintenance or repair of infrastructure in the U.S. The Buy America preference requirement applies to all of the iron and steel, manufactured products and construction materials used for the infrastructure project under an award for identified EPA financial assistance funding programs.

These sourcing requirements require that all iron, steel, manufactured products and construction materials used in federally funded infrastructure projects must be produced in the U.S. For legal definitions and sourcing requirements, the recipient must consult EPA's Build America, Buy America website.

Clean Ports Program grants are subject to the requirements of BABA, which requires applicants to comply with Buy America preference requirements or apply for a waiver for each infrastructure project. The following potentially eligible projects under this competition meet the definition of "infrastructure" and are subject to Buy America preference requirements under BABA:

- Structures, facilities and equipment that generate, transport and distribute energy – including electric vehicle (EV) charging equipment.

2. Davis-Bacon and Related Acts

Davis-Bacon and Related Acts (DBRA) is a collection of labor standards provisions administered by the Department of Labor, that are applicable to grants involving construction. These labor standards include the:

- Davis-Bacon Act, which requires payment of prevailing wages for laborers and mechanics on construction contracts of $2,000 or more
- Copeland "Anti-Kickback" Act, which prohibits a contractor or subcontractor from inducing an employee into giving up any part of the compensation to which he or she is entitled
- Contract Work Hours and Safety Standards Act, which requires overtime wages to be paid for over 40 hours of work per week, under contracts in excess of $100,000
- Contract provisions for subawards, contractors and subcontractors
    - DBRA requirements for subrecipients/contractors
    - DBRA requirements for subrecipients/contractors for contracts greater than $100,000

3. Bonding Requirements

Minimum bonding requirements for federal construction contracts or subcontracts exceeding the simplified acquisition threshold of $350,000 are as follows:

- **Bid Guarantee:** Each bidder must submit a bid guarantee equal to 5% of the bid price, in the form of a bid bond, certified check, or other negotiable instrument, as assurance that the bidder will execute all required contractual documents upon award.
- **Performance Bond:** The selected contractor must furnish a performance bond equal to 100% of the contract price to ensure full and faithful performance of all contractual obligations.
- **Payment Bond:** The selected contractor must furnish a payment bond equal to 100% of the contract price to ensure payment to all persons supplying labor and materials in the performance of the contract.

4. Apprenticeship Programs

- Apprentices employed by subrecipients or contractors on public works construction projects exceeding $100,000 must be enrolled in apprenticeship programs registered with and approved by the U.S. Department of Labor.