

# DEPARTMENT OF THE TREASURY

WASHINGTON, D.C. 20220



**TO:** N. Sabeeh Rahman, Associate Administrator, Office of Information and Regulatory Affairs

**FROM:** Ryan Law, Deputy Assistant Secretary for Privacy, Transparency, and Records

**SUBJECT:** Justification for Emergency Processing: RESTORE Act, Direct Component Build America, Buy America Act (BABAA) Waiver Request Forms

Pursuant to the Office of Management and Budget (OMB) procedures established at 5 C.F.R. § 1320.13, the Department of the Treasury (Treasury) requests emergency processing for the RESTORE Act, Direct Component information collection request.

OMB determined that section 70914(a) of the Build America, Buy America Act (“BABAA”) included in the Infrastructure Investment and Jobs Act (Pub. L. No. 117-58), applies to awards for “infrastructure,” as defined in BABAA, made under Treasury’s RESTORE Act Direct Component program. As a result of this determination, beginning on January 13, 2023, Direct Component recipients (and subrecipients, as applicable) are prohibited from using Direct Component grant funds to purchase foreign-sourced iron, steel, manufactured products, or construction materials unless Treasury approves a waiver pursuant to section 70914(b) of BABAA. Treasury therefore needs to collect information from recipients that seek a waiver from BABAA requirements in order to (a) determine if a waiver is justified, and if so, (b) draft the requested waiver and post it on the RESTORE Act Buy America Preference website and the GSA-managed MIAO website for public comments before it is finalized.

Treasury is requesting an emergency clearance for the BABAA Waiver Request forms by January 13, 2022, which is the expiration date of Treasury OGCR’s six-month general applicability public interest adjustment period waiver. Treasury was unable to begin the process of requesting emergency clearance earlier, because the final list of fields for the GSA-managed MIAO website were only made available on December 8, 2022; prior to that date, Treasury could not determine which fields it needed to report and therefore could not determine which fields it needed from Federal assistance recipients.

Treasury has not yet solicited public comments, although it has shared the draft information collection with its internal BABAA Working Group, which is comprised of Direct Component recipients. As soon as emergency clearance is granted, Treasury OGCR will begin the normal 60-day public comment process for clearance under the Paperwork Reduction Act of the information collection as required by 5 CFR 1320.8(d).

Due to the need to have the BABAA Waiver Request forms available for use by Direct Component recipients beginning on January 13, 2022, Treasury OGCR requests emergency processing for the BABAA Waiver Request forms.