

United States Department of Agriculture Data Elements for Build America, Buy America (BABA) Waiver Request Data Collection Common Form

For a proposed construction or broadband infrastructure project regardless of whether infrastructure is the primary purpose of the award, a recipient or its subrecipient may submit a waiver to the Build America Buy America Act (BABAA) sourcing requirements using the Build America, Buy America Waiver Request Data Collection to a Federal awarding agency during, or after it solicits bids for the project that are subject to the BABAA sourcing requirement, i.e., requiring American-made iron, steel, manufactured products, or construction materials. In accordance with BABAA, waiver requests may be submitted for the following types of waivers:

Public Interest Waiver: Applying the domestic content procurement preference would be inconsistent with the public interest (a “public interest waiver”).

Nonavailability Waiver: Types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality (a “nonavailability waiver”).

Unreasonable Cost Waiver: The inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent (an “unreasonable cost waiver”).

The Build America Buy America (BABA) Waiver Request Data Collection needs to collect from recipients and subrecipients the following information consistent with BABAA and OMB Memorandum [M 22-11](#), *Initial Implementation Guidance on Application of Buy America Preference in Federal Financial Assistance Programs for Infrastructure* and additional data elements:

1. Submitter Type
2. Submitter Contact Information
3. Submitter First and Last Name
4. Submitter Email
5. Submitter Phone Number
6. Infrastructure project description and location to the extent known.
7. Total Funding, including Federal and non-Federal shares.
8. Total estimated infrastructure expenditures, including all Federal and non-Federal shares (to the extent known).
9. Is this a waiver for a specific product or category of products?
10. Listing of Materials, Technical Specifications, and Quantity.
 - 10.1 Technical specifications description of the items to be waived, if applicable
 - 10.2 Quantity required
11. Waiver Type Choose one of the three waiver types listed in this section and only answer the questions applicable to the chosen waiver type.
 - 11.1 Nonavailability Waiver
 - 11.1.1 A description of the due diligence performed by the applicant, engineer/architect, or contractor, including names and contact information of the manufacturers, distributors, or suppliers contacted for quotes (minimum 3), and the responses provided.

11.1.2 If one or more respondent indicated that they could provide a Build America Buy America (BABA) compliant item, but you are requesting the non-availability waiver because the lead time to obtain the BABA compliant item is excessive, indicate below how the difference in lead time between a BABA compliant and non-compliant item is going to cause the project to miss a significant milestone or deadline.

11.2 Unreasonable Cost Waiver

11.2.1 What is the additional cost of the BABA compliant items, compared to using iron and steel, manufactured products, and construction materials of non-domestic or unknown origin? Attach documentation of prices for BABA compliant and non-compliant items for items to be included in the cost comparison. Attach an additional PDF file if needed.

11.2.2 What is the additional administrative cost for compliance with the BABA requirements? Attach a certification from the engineer or architect attesting to the actual or expected additional administrative cost. Attach an additional PDF file if needed.

11.2.3 The BABA requirements will be waived for individual items until the total additional cost of BABA compliance is less than 25 percent of the total project costs. Which items is the applicant requesting to be waived from the BABA requirements to reduce costs below the 25 percent cost threshold?

11.3 Public Interest Waiver

12 Waiver Additional Information

13 Anticipated Impacts

14 Certifying Official Name

15 Certifying Official Signature

16 Date of Certification

USDA agencies, staff offices, and governmentwide agencies need to collect the following information listed in OMB M-22-11 and additional data elements:

- 1A. Federal awarding agency
- 2A. Federal financial assistance program listing number
- 3A. Federal financial assistance program title
- 4A. Federal awarding agency point of contact
- 5A. FAIN and Federal awarding agency organizational
- 6A. Waiver level
- 7A. Is this a general applicability waiver?
- 8A. Agency summary and determination
- 9A. Agency Waiver
- 10A. Public Comments
- 11A. Waiver timeline

