

Build America, Buy America Act (BABAA) Domestic Content Procurement Preference Requirements Waiver

United States Department of Education BABAA Waiver Request Form

Directions: This form is to be completed only when the grantee believes it can adequately demonstrate to the U.S. Department of Education (Department), informed by public input, that a waiver of the BABAA domestic content procurement preference requirement is reasonable and necessary. To submit this waiver request, email the signed request to the Education Program Contact identified in box 3 of your Grant Award Notification (GAN).

Before Applying for a Waiver:

- **BABAA Grant Program:** Is the grant program you are applying for a waiver subject to the BABAA domestic content procurement preference requirement? A list of the Department’s BABAA affected programs is available here: [ED Infrastructure Programs](#). If the grant program is not on this list, your grant is not subject to the BABAA domestic content procurement preference requirement, and you do not need to complete this form.
- **Grant Award Date:** Was the grant awarded prior to October 1, 2022? If yes, your grant is not subject to the BABAA domestic content procurement preference requirement, and you do not need to complete this form.
- **Agency Level Waivers:** Can the grant project implement any of the agency level waivers established by the Department? The Department’s agency level waivers are posted here [Build America Buy America](#) under the Approved Agency Level Waivers heading. If so, you do not need to complete this form.
- **Manufactured Products and Construction Materials Definitions:** Are you aware of the items considered to be “manufactured products” or “construction materials”? For grants awarded on or after October 1, 2022 and prior to October 23, 2023, please see the list of those items and their definitions in [M 22-11, Office of Management and Budget Memorandum Initial Implementation Guidance on Application of Buy America Preference in Federal Financial Assistance Programs for Infrastructure](#). For grants awarded on or after October 23, 2023, see [M-24-02 Implementation Guidance on Application of Buy America Preference in Federal Financial Assistance Programs for Infrastructure](#) applies and [2 CFR Part 184 -- Buy America Preferences for Infrastructure Projects](#).
- **More Help:** For more information, please see the Department’s [Build America Buy America](#) website.

Section 1: Grantee Information: Please provide the following grant information and a contact person who can answer questions regarding your BABAA domestic content procurement preference requirement waiver request:

Entity Name:

Waiver Request Contact Person Name:

Entity UEI:

Waiver Request Contact Person Title:

Grant Program Name:

Waiver Request Contact Person Email:

Grant Program Assistance Listing Number (ALN):

Waiver Request Contact Person Phone:

Grant PR/Award Number (if applicable):

Total Cost of Infrastructure Project(s):

Total Grant Award Amount:

Amount of Costs Supported by this Grant:

Section 2: Brief Description of infrastructure Project(s): In 2-3 sentences, please provide a brief description and location of the infrastructure project(s):

Section 3: Other Federal Sources Identification: Will the project(s) covered under this waiver be funded by any other Federal financial assistance?

No Yes

If yes, please identify the sources of other Federal financial assistance by program name and ALN Number below:

Section 4: Type of Waiver Requested: Please check only **one** of the following boxes.

We request a waiver of the BABAA domestic content procurement preference requirement because:

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”).

Section 5: Waiver Scope: As applicable, please provide the scope of the proposed waiver:

We request the waiver to apply to all (100%) of the iron, steel, manufactured products, and/or construction materials to be used in the project(s).

OR

We request the waiver to apply to a broad grouping of products, e.g., all drywall or all manufactured products.

OR

We are requesting only certain identified items be granted a waiver from the domestic content procurement preference requirement.

Please check **all that apply** and identify all products by name and PSC and NAICS codes below; if more space is needed, please provide under Section 8, Waiver Supporting Documentation, below:

Iron Iron Product	Country of Origin	PSC¹ AND NAICS² Code
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Steel Steel Product	Country of Origin	PSC AND NAICS Code
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Manufactured Products Manufactured Product	Country of Origin	PSC AND NAICS Code
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¹ PSC codes describe products, services, and research and development purchased by the Federal government. PSC codes can be found in the Product Service Code sections of the [Product and Service Code Manual](#) on [Acquisition.GOV at Product and Service Code Manual | Acquisition.GOV](#).

² The NAICS codes are used by Federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. business economy. NAICS codes classify businesses based on the particular product or service supplied. A business will generally have a primary NAICS code, but it can also have multiple NAICS codes if it sells multiple products and services. NAICS codes can be found by conducting a keyword search in the NAICS search fields at [U.S. Census Bureau](#) or by accessing the NAICS code lists under the Reference File tab on U.S. Census Bureau.

Construction Materials
Construction Material

Country of Origin

PSC AND NAICS Code

Section 6: Waiver Timeline: Please provide a length of time you are requesting the waiver of the BABAA domestic content procurement preference requirement:

For the entire period of performance of the grant in which the infrastructure project(s) will occur.

OR

For a limited time during the period of performance of the grant. We request a waiver from only until _____ date.

Section 7: Wavier Justification Narrative: Please provide a justification for the requested waiver, including any anticipated impact if the waiver request is disapproved.

To help the Department in making a determination, please include the following information based on the type of the waiver requested in Section 4:

- **Public Interest Waiver:** Describe why your specific circumstances may be in the public interest to grant a waiver from the BABAA domestic content procurement preference requirement and the market research and/or industry outreach you have performed to make this determination.
- **Nonavailability Waiver:** Describe why identified domestic iron, steel, manufactured products, or construction products are unavailable, and the steps you have taken to determine their unavailability and the market research and/or industry outreach you have performed to make this determination.
- **Unreasonable Cost Waiver:** Describe how you have determined that the cost of domestic iron, steel, manufactured products and construction materials will increase the cost of the overall project(s) by more than 25 percent and the market research and/or industry outreach you have performed to make this determination.

Anticipated impact if the waiver is disapproved:

Section 8: Waiver Supporting Documentation: Please provide supporting documentation as a separate file accompanying this form. Supporting documentation could include such information as price quotes, market research, industry outreach, or public interest supporting documentation.

All documents must be in PDF; when including multiple documents, please provide a Table of Contents and brief explanations as to each document to support the Department’s expedient review of your request.

Section 9: Attestation

To the best of my knowledge and belief, I certify that all information and representations in this waiver request form and all supporting documentation is true and correct, and the entity on behalf of which I make this attestation will remain in compliance with the BABAA domestic content procurement preference requirement modified by, if granted, the terms and conditions provided by the Department through granting a waiver of the BABAA domestic content procurement preference requirement.

I further acknowledge that failure to submit true and correct information, failure to follow the BABAA domestic content procurement preference requirement or the conditions provided under any waiver of those requirements, or failure to remain in compliance with the terms and conditions of this grant may result in liability under the False Claims Act, 31 U.S.C. § 3729, *et seq.*; OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 C.F.R. part 180, as adopted and amended as regulations of the Department in 2 C.F.R. part 3485; and 18 U.S.C. § 1001, as appropriate, and/or other enforcement actions.

Name:

Signature:

Date:

Paperwork Burden Statement

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. The valid OMB control number for this information collection is 1894-New. Public reporting burden for this collection of information is estimated to average 10 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The obligation to respond to this collection is *required to obtain or retain benefit* (with section 70914 of the Build America Buy America Act (Pub. L. No. 117-58 §§ 70901-70953)). If you have any comments concerning the accuracy of the time estimate, suggestions for improving this individual collection, or if you have comments or concerns regarding the status of your individual form, application or survey, please contact your assigned program officer directly.

Submission of Proprietary Information

FOIA exempts from mandatory disclosure any “trade secrets or commercial or financial information obtained from a person and privileged or confidential.” 5 U.S.C. 552(b)(4) (Exemption 4). In accordance with Exemption 4, the Department will maintain as confidential any documents submitted by you, or prepared by the applicant or grantee, that are both customarily and actually treated as private by the applicant or grantee, or closely held and not publicly disseminated. If you feel that some or all of this submission falls within the scope of Exemption 4 and is entitled to confidential treatment, you must indicate the specific information the applicant or grantee considers proprietary in a cover attachment to this form. Please note that your designations of exempt material are not binding on the Department.

Public Posting of Waiver Request Information

The BABAA domestic sourcing requirements waiver authority generally requires the Department to post this waiver information for a period of public comment and review. The Department will not publicly post information considered to be personally identifiable information (PII), including signatures and specific contact information such as an email address and phone number. However, all other information contained in this form, along with any supporting documentation, may be publicly posted so that the public has adequate information to comment on your requested waiver of the BABAA domestic sourcing requirements. If you feel that some of the information contained in this waiver request is “proprietary information” and do not want this information disclosed, please follow the instructions in “Submission of Proprietary Information”, below. Please note that your designations of exempt material are not binding on the Department.