

## BUILD AMERICA BUY AMERICA WAIVER REQUEST

This data collection is for submitting a waiver request to the Build America, Buy America requirements. According to the Build America Buy America Act (BABAA), “none of the funds made available for a Federal Financial Assistance program for infrastructure, including each deficient program, may be obligated for a project unless all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States.”

Waiver processes are explained in the [Office of Management and Budget Memorandum 24-02](#) and the [Infrastructure, Investments and Jobs Act](#) (IIJA) sections 70901 through 70952. Each waiver request must provide responses to the form questions, as applicable. Instructions are provided in the next paragraph. Contact your Department of Housing and Urban Development representative for your award or for additional assistance with completing this data collection.

**Instructions:** The submitter (HUD Grantee) needs to complete questions 1 through 19, sign and certify the form at [BABAWaiver.hud.gov](http://BABAWaiver.hud.gov).

**Required fields are marked with an asterisk (\*)**

### Questions to be Answered by the Grantee

#### 1. Submitter Contact Information

Legal Name *		Unique Entity Identifier (UEI) *
Address 1 *		
Address 2		
City *	County/Parish	State
Territory/Province	Country *	Zip/Postal Code *

#### 2. Submitter Email \*

#### 3. Submitter Phone Number \*

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**4. Federal Financial Assistance Identification Number (FAIN/Award Number) \***

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**4.1 Provide the SAM.gov Assistance Listing number. \***

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**4.2 Provide the SAM.gov Assistance Listing name. \***

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**5. Housing and Urban Development (HUD) Program Name \***

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**6. Federal Financial Assistance Funding Amount \***

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**7. Description of Infrastructure Project:\***

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**7.1 State the Infrastructure Project description and location, to the extent known:**

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**7.2 Timeframe for Project, including when purchases will be made and project will be completed:**

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**7.3 Are other Federal Agencies providing funding for this project and/ or product?**      Yes      No      N/A

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- **If yes:** Complete section 7.3.1
  - **If no:** Proceed to question 8
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**7.3.1** If you answered yes to question 7.3, does HUD provide the largest amount of funding to the project? Please note, if HUD is not the largest funder, you must apply for a waiver through the Federal Agency that provided the largest amount of funding to the project.    Yes    No

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**7.3.1a** If you answered yes to question 7.3.1, please list the other Federal Agencies involved, including the Office, Program, and contact information for each Agency.

Federal Agency	Office	Program	Contact Information

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**7.3.1b** If you answered no to question 7.3.1, please explain why you are submitting a waiver application to HUD. You must apply for a waiver through the Federal Agency that provided the largest amount of funding to the project. Your application will not be reviewed by HUD if an explanation is not provided, nor if the explanation does not provide sufficient justification for HUD to review the application.

**8. Total cost of infrastructure project, including federal and non-federal funding: \***

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**9. Total estimated infrastructure material costs, including all federal and non-federal shares (to the extent known): \***

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**9.1. Total estimated cost of materials you are seeking to waive in this request.**

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**10. Is this waiver for one or more specific products or categories of products? Check one or both below:**

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- a.    Specific Product(s)
  - b.    Category(ies) of Products
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## 11. Listing of Materials, Technical Specifications, and Quantity:

List of iron or steel items, manufactured products, and construction materials proposed to be excepted from BABAA requirements, including name, cost, and relevant Product Service Code (PSC) and North American Industry Classification System (NAICS) code for each. List each item separately. List the name of the product, how much the product costs, in U.S. dollars, the country or countries of origin, if known, and the relevant PSC and NAICS code for each product. Links to manuals that provide the PSC and NAICS codes:

- PSC Codes: <https://www.acquisition.gov/psc-manual>
- NAICS Codes: <https://www.census.gov/naics/>

**11.1 Technical specification descriptions of items and/or categories of items to be waived, if applicable. Specify for each if they are classified as iron, steel, construction materials or manufactured products.**

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**11.2 Quantity required of the items and/or categories of items to be waived:**

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## 12. Scope and Level of Waiver \*

**12.1 Waiver level (check one below):**

- Award Level (one award)
  - Project Level (one infrastructure project within one award, or one infrastructure project co-funded by multiple Agencies)
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**12.2 Describe the scope of the waiver.**

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### 13. Waiver Type \*

Choose **ONE** of the three waiver types listed in this section and only answer the questions applicable to the chosen waiver type.

- **Nonavailability waivers:** Complete section 13.1.
- **Unreasonable Cost waivers:** Complete section 13.2.
- **Public Interest waivers:** Complete section 13.3.

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#### 13.1 Nonavailability Waiver

Applicable responses to the following are required:

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- 13.1.1 A description of the due diligence performed by the applicant to determine if **the iron, steel, construction materials or manufactured products** were available, including names and contact information of the manufacturers, distributors, or suppliers contacted for quotes (minimum 3), and the responses provided. *Attach documentation for additional support if needed.*
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**13.2 Unreasonable Cost Waiver** (The inclusion of BABA compliant 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).

Applicable responses to the following are required:

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13.2.1 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.

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**13.3 Public Interest Waiver**

13.3.1 Explain how complying with the BABA requirement for this project or product would be inconsistent with the public interest. *Attach documentation for additional support if needed. Please note, this waiver type must be used judiciously and construed to ensure the maximum utilization of goods, products, and materials produced in the United States. Explain in your justification any efforts to ensure compliance with the requirements. Public interest waiver requests should be project and product specific, whenever possible.*

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**14. Additional Waiver Information**

Provide any additional information for HUD's consideration of the requested waiver.

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**15. Anticipated Impacts \***

Identify any anticipated impacts if no waiver is issued. *Attach documentation for additional support if needed.*

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**16. Certification \***

Certification that the Federal assistance recipient made a good faith effort to solicit bids for domestic products supported by terms included in requests for proposals, contracts, and nonproprietary communications with the prime contractor or supplier.

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**17. Certifying Official Name: \***

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**18. Certifying Official Signature: \***

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**19. Date of Certification: \***

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### **Public Posting of Waiver Request Information**

The BABAA domestic sourcing requirements waiver authority generally requires the Federal awarding agency 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.

### **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.

### **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 \(Pub. L. No. 117-58 §§ 70901-70952\)](#)). 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.

### **Warning Statement and Certification**

The Certifying Official certifies under penalty of perjury that the information provided in this form is true and correct. **WARNING:** Anyone who knowingly submits a false claim or makes a false statement is subject to criminal and/or civil penalties, including confinement for up to 5 years, fines, and civil and administrative penalties. (18 U.S.C. §§ 287, 1001, 1010, 1012, 1014; 31 U.S.C. §§ 3729, 3802).

-- END OF FORM --

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