Build America, Buy America Act:

Buy America Preference (BAP) Applicability Checklist

Oklahoma Department of Commerce - CDBG Program

COMMUNITY PLANNING & DEVELOPMENT

For more information on BABA and the BAP, visit the BABA page on the HUD exchange.

Grantee Requirement Overview

Please complete this worksheet to assist with determining the Buy America Preference (BAP). This checklist follows the analysis steps as described in **NOTICE CPD-25-01** and should be uploaded with the **CDBG Construction Procurement Checklist** at time of **Notice of Award Submittal**. You may seek assistance from the project engineer and construction contractor to complete the worksheet and provide supporting documents.

Project Information

Grantee Name	
Grant Contract Number	
Activity Description	

Step 1:

Is the project an infrastructure project, as defined by the BABA statute?

☐ Yes	Continue to Step 2.
☐ No	The BAP does not apply. The BAP only applies to infrastructure projects. Stop here.

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Step 2:

Will the project use covered materials?

Each material should be classified into only one category: iron and steel, specifically listed construction materials, not listed construction materials, or manufactured products. This classification is necessary to apply HUD's Phased Implementation waiver.

Check the box below for each type of covered material incorporated into this infrastructure project.

☐	Iron or steel
☐	Specifically Listed Construction materials
☐	Not Listed Construction materials
☐	Manufactured products

If you checked any boxes above, answer yes.

☐ **Yes**	Continue to [redacted] Step 3
☐ **No**	The BAP does not apply to this project because it will not incorporate any covered materials. Stop here.

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Step 3:

Based on the obligation date of the covered CPD program funds, does the BAP apply to the funding source and covered materials that will be used in the project?

Use the phased implementation table to determine whether the BAP applies based on the obligation date for the covered CPD program funds and classification of materials. The BAP may only apply to some covered materials used in the project.

The obligation date is generally the date that HUD executed the grant agreement for covered CPD program funds to the grantee. This date may be found in the grant agreement. The obligation date is not the date when the grantee commits funds to a project under a subrecipient agreement.

BAP will apply to...	Iron and Steel	Specifically Listed Construction Materials	Not Listed Construction Materials	Manufactured Products
CDBG	CDBG funds obligated on or after 11/15/22	Projects using FY24 CDBG funds	Projects using FY25 CDBG funds	Projects using FY25 CDBG funds

☐ Yes	Indicate here which covered materials the BAP applies to and continue to [redacted] Step 4 ☐ Iron and steel ☐ Specifically listed construction materials ☐ Not listed construction materials ☐ Manufactured products
☐ No	The BAP does not apply to this project because the funds were obligated before the effective date for the program/materials used in the project. Stop here.

Step 4

HUD has issued several general waivers. Check the box next to any conditions that apply to the project.

Infrastructure projects that meet the conditions of a general waiver may be exempt in whole or in part from the BAP.

☐	The total cost of the project from all sources (Federal and non-Federal) is an amount equal to or less than the 2 CFR 200.1 simplified acquisitioIn threshold, which is currently $250,000. If checked, the Small Grants Waiver applies, and the project is exempt from the BAP. (Waiver effective until November 23, 2027.)
☐	There is an urgent need to immediately complete the project because of a threat to life, safety, or property. If checked, the Exigent Circumstances Waiver applies, and the project is exempt from the BAP. (Waiver effective until November 23, 2027.)

If you checked any of the boxes above, answer yes below.

☐ **Yes**	The HUD general waiver selected above is being applied to this project, so the BAP does not apply to the entire project. Documentation of the conditions of the waiver should be attached.
☐ **No**	Proceed to Step [redacted]. 4a

Step 4a:

Calculate the *De Minimis* limit for the project:

The total cost of all covered materials includes all iron and steel, construction materials, and manufactured products used in the project, regardless of whether the BAP currently applies under the Phased Implementation waiver.

Enter the total cost of all covered materials:	
Multiply that amount by 0.05 (5%):	
Enter the lower of the number calculated in the row above or $1,000,000 (whichever is less).	

The amount in the third row above is the De Minimis limit for this project. The BAP can be waived for covered materials from foreign or unknown sources at a cost not to exceed the *De Minimis* limit of 5% of the total cost of materials or $1,000,000 (whichever is less). The BAP will still apply to other covered materials used in the project. **Please attach a list of covered materials and their associated costs to which the *De Minimis* limit has been applied.**

Step 5:

Is there a need for a project-/product-specific waiver?

If the BAP applies to a project and all general waiver flexibilities have been utilized, but there are remaining covered materials that can only be sourced from foreign or unknown sources, then a grantee may apply for a project-/product-specific waiver.

☐ Yes	Refer to guidance in Section VIII and IX of Notice CPD-25-01 - (Waiver Instructions from HUD)
☐ No	

Completed by Name and Phone Number	Date Completed

Form 407.8

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