

Build America, Buy America (BABA) Act

The Build America, Buy America Act (BABA) is legislation enacted in the Infrastructure Investment and Jobs Act (IIJA) in 2021. Its purpose is to strengthen the U.S. economy by ensuring that federally funded infrastructure projects use American-made materials, products, and services, thereby supporting domestic manufacturing, job creation, and supply chain resilience. This requirement is known as the Buy America Preference (BAP).

Requirements: All infrastructure projects funded by federal dollars must use domestically sourced materials and products. This includes:

- Iron and steel products (pipes, rebar, structural steel)
- Manufactured products (55% of the total component cost must be of US origin)
- Construction materials such as aluminum, copper, plastic and polymer-based products like PVC, glass, lumber and drywall, and fiber optic cable

Date of Obligation: The BAP fully applies to infrastructure projects using ESG and CoC funds obligated by HUD on or after August 23, 2024. Please check the [HUD website](#) for the obligation rules of other funding streams.

Activities Subject to the BAP: Infrastructure projects, including, construction, alteration, and maintenance & repair of structures, facilities, and equipment.

CoC funding examples: Rehab, reconstruction, or new construction of permanent and transitional housing are all subject to the BAP. Outside of construction, generally only CoC projects with an Operating Budget Line Item may be subject to the BAP, with items such as:

- major renovation or rehabilitation of buildings used for shelter or housing
- installation of permanent fixtures or equipment such as HVAC systems, plumbing, or electrical systems
- repairs and upgrades to items such as a roof, an HVAC system, or lighting fixtures

ESG funding examples: Renovation of temporary shelter for families, conversion of a building into an emergency shelter would be subject to the BAP.

Activities that are not subject to the BAP:

- Supportive services
- Rental assistance
- Administrative activities
- Shelter operating expenses



- Disaster and emergency response

Waivers Current non-expired *general* waivers through 11/23/2027:

- Exigent circumstances waiver: there is an urgent need because of a threat to life, safety, or property of the residents and community.
- De minimis, small grants and minor components:
 - The total cost of the project from all sources of funding (local, state, federal, private) is less than \$250,000.
 - The cost of certain products does not exceed five percent of the total cost of covered products in the project (up to \$1 million).

Project-specific waivers (case by case review and approval):

- Public interest waiver
- Domestic non-availability of materials
- Unreasonable costs—the domestically produced materials increase the overall cost of the project by more than 25%.

Next Steps

- Review your agency's procurement policies and procedures and update them to implement the BAP requirements.
- Review HUD's BABA Quick Guides to determine if the BAP applies to your project.
- Where the BAP applies, be sure project records document compliance

Documentation

- Review existing procurement policies and procedures to ensure [standard BABA language](#) is added, including contracts, subcontracts, purchase orders, and bidding documents.
- Maintain records for how you determined applicability of the BABA determination and include your justification
- Collect and file copies of product certifications for the project if BABA applies
- Remember that grantees are responsible for their own records *and* any kept by subrecipients, contractors, etc.

Additional Resources:

- [COC BABA Quick Guide](#)
- [ESG Quick Guide](#)
- [HUD BABA Site](#)

