

Build America Buy America Determination Form

SECTION I: GENERAL INFORMATION		
<p>CDBG grantees are required to document the procedure followed to assess whether the Buy America Preference is applicable to a project. Grantees must complete each step providing sufficient information to complete a cohesive analysis of the CDBG project. Grantees must coordinate with engineers/architects to complete this form. <i>Instructions are provided in pages 4, 5 & 6. You may also refer to the Buy America Implementation Schedule</i></p>		
1. Grantee	2. Round Number and Year	3. OCRA's Program Name
4. Grant Administrator	5. Grant Administrator Email	6. Grant Administrator Phone #
7. Engineer	8. Engineer Email	9. Engineer Phone #

SECTION 2: DETERMINATION ANALYSIS		
STEP 1: TYPE OF PROJECT OR ACTIVITY		
1. Are the funds being used for an infrastructure project, as defined in the Buy America Build America Act? <div style="text-align: center;"> Yes <input type="checkbox"/> No <input type="checkbox"/> </div>		
If you answered "yes", proceed to STEP 2. If you answered "no", the Buy America Preference does not apply to the CDBG project, proceed to STEP 6, and complete the certification section.		
STEP 2: FUNDING SOURCE		
1. Are there any other federal agencies that are co-funding the project, aside from CDBG? <div style="text-align: center;"> Yes <input type="checkbox"/> No <input type="checkbox"/> </div>		
2. What is the total amount of CDBG funding that will be utilized in the project?		
3. If applicable, what is the total amount of federal funding, excluding CDBG, that will be utilized in the project?		
4. Federal or Pass-through Agency Name	5. Funding Program Name	6. Contact Information
7. Federal or Pass-through Agency Name	8. Funding Program Name	9. Contact Information
STEP 3: MATERIALS		
1. Does the project use products subject to the Buy America Preference? <div style="text-align: center;"> Yes <input type="checkbox"/> No <input type="checkbox"/> </div>		
If you answered "yes" on Q1, proceed to Q2. If you selected "No" on Q.1, skip Q2 and proceed to STEP 4.		

<p>2. Products that are part of the infrastructure project should only be classified into one of the following categories: (i) Iron or steel products; (ii) Manufactured products; (iii) Specifically Listed Construction Materials; (iv) Not Listed Construction Materials; or (iv) Section 70917(c) materials. Check the applicable categories that applies to the infrastructure project based on the Phased Implementation Schedule or information provided by OCRA on the products applicable for the round.</p>	
<p><input type="checkbox"/> Iron and Steel (IS) means an article, material, or supply that consists wholly or predominantly of iron or steel, or a combination of both.</p>	
<p><input type="checkbox"/> Specifically Listed Construction Material (SLCM) means (a) non-ferrous metals; (b) lumber; (c) composite building materials; and (d) plastic and polymer-based pipe and tube.</p>	
<p><input type="checkbox"/> Not Listed Construction Materials (NLCM) means (a) plastic and polymer-based products other than composite building materials or plastic and polymer-based pipe or tube, (b) glass (including optic glass); and (c) drywall.</p>	
<p><input type="checkbox"/> Manufactured Products (MP) means articles, materials, or supplies that have undergone a specific form and shape processing or have been combined with other articles, materials, or supplies to produce a product with different properties than the individual components. A component of a manufactured product may include construction materials, iron or steel products, or section 70917(c) materials.</p>	
<p>STEP 4: DATE OF OBLIGATION</p>	
<p>1. According to OCRA's CDBG round specific guidance and the date of obligation of the funds, would the materials used in your project be subject to the Buy America Preference? <div style="text-align: center;"> Yes <input type="checkbox"/> No <input type="checkbox"/> </div> </p>	
<p>If you answered "yes" on Q1, proceed to Q2. If you selected "No" on Q1, skip Q2, STEP 5 and proceed to STEP 6, complete the certification section, and submit the form.</p>	
<p>2. Select the cell that corresponds to the project and the product applicable for the round.</p>	
<p>Iron and Steel: The Buy America Preference applies to the purchase of iron and steel for infrastructure projects using CDBG funds obligated on or after November 15, 2022.</p>	
<p>Specifically listed Construction Materials: The Buy America Preference will apply to the purchase of specifically listed construction materials beginning with funding obligations from Congressional Fiscal Year 2024 CDBG funds, as well as iron and steel.</p>	
<p>Not listed Construction Materials & Manufactured Products: The Buy America will apply to the purchase of not listed construction materials beginning with funding obligations from Congressional Fiscal Year 2025 CDBG funds, as well as specifically listed construction materials, iron, and steel.</p>	
<p>STEP 5: GENERAL WAIVERS</p>	
<p>Exigent Circumstances Waiver: Is there an urgent need to immediately complete the project because of a threat to life, safety, or property of residents and the community? <div style="text-align: center;"> Yes <input type="checkbox"/> No <input type="checkbox"/> </div> </p>	

Instructions

This form is required for all CDBG awards. In accordance with 24 CFR 570.490 and 2 CFR 200.334, this form ensures standardized recordkeeping documentation for the analysis of the applicability of the Buy America Build America Act, in accordance with the process outlined in [HUD Notice CPD-23-12](#). This form is used to evaluate the applicability of the Buy America Preference by collecting information on the products or materials to be used in the infrastructure project and identifying the cognizant agency responsible for compliance.

SECTION I: GENERAL INFORMATION.

The Grant Administrator who possesses knowledge and information of the project and the parties involved in the project must complete this section by entering the required information in question 1 through 9.

SECTION 2: DETERMINATION ANALYSIS

The grant administrator, on behalf of the grantee, should complete this section with the guidance and coordination of the advising engineer/architect, who possesses adequate knowledge regarding the materials or products required for the federal infrastructure project.

STEP 1: TYPE OF PROJECT OR ACTIVITY

This section assesses whether the project meets the criteria for infrastructure project, as outlined in the BABA. Infrastructure generally refers to public infrastructure projects in the United States, which include a variety of components such as roads, highways, bridges, public transportation, dams, ports, harbors, and other maritime facilities, intercity passenger and freight railroads, freight and intermodal facilities, airports, water systems (including drinking water and wastewater systems), electrical transmission facilities and systems, utilities, broadband infrastructure, buildings, and real property. It also covers structures, facilities, and equipment that generate, transport, and distribute energy, including electric vehicle (EV) charging, as defined in 2 CFR 184.4(c).

An infrastructure project refers to any activity that involves the construction, alteration, maintenance, or repair of infrastructure in the United States, regardless of whether infrastructure is the primary purpose of the project, as defined in 2 CFR 184.3.

If you answered "yes" to question 1, please proceed to STEP 2. If you answered "no", the Buy America Preference does not apply to the CDBG project. You can proceed to STEP 6 and complete the certification section. Once complete, the form is ready to be submitted to OCRA as part of readiness to proceed (FEPS).

STEP 2: FUNDING SOURCE

It is important to have sufficient knowledge of the project financing to complete this section accurately. This section requires identification of the source(s) of the project funding, including any CDBG funding or other Federal agency funding that is required to comply with BABA. If the additional financing for the project comes from local sources, you only need to answer question 1 and question 2 and indicate "not applicable" for the remaining questions in STEP 2. If the project is funded in part with other federal funding sources, answer 'Yes', proceed to provide the required information in question 2 & question 3. If the federal funding is provided through a federal or pass-through state agency, then the relevant information about the agency

should be provided in question 4, question 5 & question 6. If additional space is needed use questions 7 through 9.

STEP 3: MATERIALS

This section is designed to evaluate infrastructure projects that do not include products or materials that are subject to the Buy America Preference. If you answered "yes" on question 1, proceed to question 2. If you answer "No" on question 1, proceed to STEP 4.

For question 2, an estimation of the materials or products that will be utilized for the infrastructure project is required. Please note that OCRA acknowledges that materials or products may change during the final design phase, and the information provided in this section is not binding. Therefore, the engineer/architect should provide their best estimate to identify and categorize the products that are anticipated to be used in the infrastructure project. Please select all applicable products or materials in question 2.

STEP 4: DATE OF OBLIGATION

This section requires grant administrators and engineers/architects to refer to HUD's [FR-6331-N-06: Phased Implementation Waiver](#) schedule and any relevant information provided by OCRA regarding the applicability of BABA to the round opening. Referred to the guidance provided by OCRA in the round specific guidance and to the [Buy America Preference Implementation Schedule](#).

Grant administrator should identify the obligation date of the CDBG funds, which is the date HUD executed the CDBG grant agreement with OCRA. An estimation should be made to evaluate whether the date of obligation for CDBG funds falls on or after the effective date of the Buy America Preference for every category of products necessary to complete the infrastructure project. Resources for this section can be found in [OCRA's BABA resources](#).

If you answered "yes" on question 1, proceed to question 2. For question 2, the engineer/architect is required to provide guidance on the materials or products that are projected to be used in the infrastructure project. If you answered "No" on question 1, proceed to STEP 6, and complete the certification section.

STEP 5: GENERAL WAIVERS

Grant administrators must work with the engineer/architect to review the HUD General Waivers that are applicable to the project. There are three general waivers that may be utilized as an alternative to compliance with the BAP under the Phased Implementation Waiver: 1) [Exigent Circumstances Waiver](#), 2) the [De Minimis, Small Grants, and Minor Components Waiver](#), and 3) the [Tribal Recipients Waiver](#). Evaluate each HUD General Waiver that is available, taking into consideration the waiver's specific requirements and the project's qualifications. If you answered "yes" or "no" to any question 1 through 4, proceed to step 6.

STEP 6: CERTIFICATION

Before submitting the form, the Chief elected official, and the engineer/architect are responsible for verifying the accuracy of all information provided in the form. They must then proceed to sign and date in the section provided.



SUBMISSION REQUIREMENTS

This form must be submitted to OCRA along with all other essential Readiness to Proceed documents including financial, engineering, permits, and site control (FEPS) for all CDBG awards.