

BABA-01: Applicability Determination Form

This form is for use by Grantees awarded Federal Financial Assistance (FFA) from the Office of Community and Rural Affairs (OCRA) to assess whether the Build America, Buy America Act (BABA) Buy America Preference (BAP) applies to the project.

- The Grant Administrator should complete this form with input from the advising engineer/architect.
- BABA-01 and supporting documentation are due for submission in eGMS by the FEPS/Readiness to Proceed deadline.
- A section-by-section instruction guide for this form is available on pages 4–7.

SECTION 1: GENERAL INFORMATION			
1.1. Project Information			
1.1.1. Grantee	1.1.2. Grant ID/Round Number and Year	1.1.3. OCRA Program Name	
1.2. Grant Administrator Information			
1.2.1. Name	1.2.2. Company	1.2.3. Email Address	1.2.4. Phone Number
1.3. Architect/Engineer Information			
1.3.1. Name	1.3.2. Company	1.3.3. Email Address	1.3.4. Phone Number

SECTION 2: FUNDING SOURCE(S)				
2.1. Enter the information for the OCRA-awarded Federal Financial Assistance (FFA) used in the project. (See instructions for determining the HUD appropriation year(s).)				
Funding Program	Fed/Pass-Through Agency	HUD Appropriation Year(s)	Funding Amount	Subject to BAP?
☐ CDBG	HUD/OCRA			YES
☐ RHP	HUD/OCRA			YES
☐ CDBG-DR	HUD/OCRA	N/A		NO
2.2. Is this project being co-funded by any FFA not awarded by OCRA?				
☐ Yes (Enter the information for all non-OCRA FFA in the table below.) ☐ No				
Funding Program	Fed/Pass-Through Agency	Awarding Agency Contact Information	Funding Amount	Subject to BAP?
a.				☐ Yes ☐ No
b.				☐ Yes ☐ No
c.				☐ Yes ☐ No
▪ If you answered "Yes" to Question 2.2 AND selected "No" in the "Subject to BAP?" column for any source, you MUST provide a letter from the awarding agency stating BABA does not apply to that source for the project. ▪ Keep in mind that even if BABA applies to one source of FFA but not another, the project as a whole is still subject to BAP.				
2.3. Are any of the project's sources of FFA from Questions 2.1 and/or 2.2 subject to BAP?				
☐ a. Yes, OCRA funding ONLY (CDBG/RHP). ☐ b. Yes, non-OCRA funding ONLY.				
☐ c. Yes, both OCRA and non-OCRA funding. ☐ d. No, no funding for this project is subject to BAP.				
▪ If you answered "a" or "c" for Question 2.3 proceed to SECTION 3. ▪ If you answered "b" or "d" for Question 2.3, skip to SECTION 4 and check "No" on Question 4.1.1.				

SECTION 3: BABA APPLICABILITY ANALYSIS

- SECTION 3 evaluates BABA applicability for the OCRA-awarded portion of the project funding. However, even if BAP does not apply to OCRA-awarded funding, if ANY FFA source is subject to BAP, the ENTIRE project is subject to BAP.
- If the project includes non-OCRA FFA, applicable material categories may vary from HUD's phased implementation timeline.

3.1. Step 1: Type of Project or Activity

3.1.1. Are the funds being used for an infrastructure project, as defined in the Build America, Buy America Act?
(See instructions for infrastructure definition and project applicability guidance, including OOR applicability.)

☐ Yes ☐ No

- If you answered "Yes" for Question 3.1.1, proceed to Step 2, Question 3.2.1.
- If you answered "No" for Question 3.1.1, skip to SECTION 4 and check "No" on Question 4.1.1.

3.2. Step 2: Covered Materials Used and Phased Implementation Applicability

3.2.1. Does the project USE covered materials from ANY of the following categories? (Check all that apply. See instructions for complete category definitions.)

- ☐ **IS** (Iron and Steel Products)
- ☐ **SLCM** (Specifically Listed Construction Materials)
- ☐ **NLCM** (Not Listed Construction Materials)
- ☐ **MP** (Manufactured Products)
- ☐ **None Used** (Project DOES NOT use materials from ANY of the above categories.)

3.2.2. Use the most recent HUD fiscal year appropriation identified in Question 2.1 and HUD's phased implementation schedule below to determine which material categories are subject to BAP. (Check all applicable categories. See instructions for details.)

- ☐ **IS** (CDBG FY2023/RHP FY2024 or after)
- ☐ **SLCM** (CDBG/RHP – FY2024 or after)
- ☐ **NLCM** (CDBG/RHP – FY2025 or after)
- ☐ **MP** (CDBG/RHP – FY2025 or after)
- ☐ **None Apply** (NONE of the above categories are subject to BAP for the project. – CDBG FY2022/RHP FY2023 or prior)

3.2.3. If you selected "None Used" for Question 3.2.1 above, provide a brief description of the infrastructure project, explaining why it DOES NOT use ANY covered materials. (Otherwise, enter "Not Applicable" or "N/A.")

- If, for at least ONE of the material categories you checked in Question 3.2.1 (IS, SLCM, NLCM, and/or MP), you also checked that same category in Question 3.2.2, proceed to Step 3, Question 3.3.1.
- If at least ONE of the following applies, skip to SECTION 4 and check "No" on Question 4.1.1:
 - You checked "None Used" for Question 3.2.1 and completed Question 3.2.3.
 - You checked "None Apply" for Question 3.2.2 (if most recent OCRA FFA year – CDBG: FY2022/RHP: FY2023 or prior).
 - For ANY category you checked in Question 3.2.1, you DID NOT check that category in Question 3.2.2 (or vice versa).

3.3. Step 3: General Waivers

For ANY general waiver(s) selected below, prior approval from OCRA is REQUIRED.

3.3.1. Exigent Circumstances Waiver: Is there an urgent need to complete the project due to threat to life, safety, or property of residents and the community?

☐ Yes ☐ No

3.3.2. Small Grants Waiver: Is the total cost of the project from all sources less than or equal to \$350,000?

☐ Yes ☐ No

3.3.3. Tribal Recipients Waiver: Is the project being funded or co-funded by an Indian Tribe (\$2.5 million max total FFA)?

☐ Yes ☐ No

- If you answered "Yes" for ANY general waiver(s) in Step 3, proceed to SECTION 4 and check "No" on Question 4.1.1.
- If you answered "No" for ALL general waivers in Step 3, proceed to SECTION 4 and check "Yes" on Question 4.1.1.

SECTION 4: BABA APPLICABILITY DETERMINATION AND COGNIZANT AGENCY

4.1. Applicability Determination

4.1.1. Based on the analysis in this form, BABA requirements, and project information, is any of the project's OCRA-awarded FFA subject to BAP?

☐ Yes

☐ No

4.1.2. Based on your responses in SECTION 2, is there any non-OCRA FFA included in the project that is subject to BAP? (Select "Yes" ONLY if your response to Question 2.3 indicates that non-OCRA funding is subject to BAP.)

☐ Yes

☐ No

4.1.3. Based on the determination from this form, does BABA apply to the project?

☐ **No, BABA DOES NOT apply to the project.** (If "No" answered for **BOTH** Questions 4.1.1 AND 4.1.2.)

☐ **Yes, BABA DOES apply to the project.** (If "Yes" answered for **EITHER** Question 4.1.1 AND/OR 4.1.2.)

4.2. Cognizant Agency

4.2.1. If you answered "Yes" for Question 4.1.3., which agency acts as the Cognizant Agency for this project?

☐ **OCRA (on behalf of HUD)** (Select if OCRA's funding is BAP-applicable **AND** either **(1)** it is the **ONLY** BAP-applicable funding source or **(2)** it provides the greatest amount of FFA.)

☐ **Other:** _____ (Select if a non-OCRA agency's funding is BAP-applicable **AND** either **(1)** it is the only BAP-applicable funding source or **(2)** it provides the greatest amount of FFA.)

☐ **Not Applicable** (BABA does not apply to the project for any funding source(s).)

SECTION 5: AFFIRMATION

I, as engineer/architect for the project, and after reviewing all relevant information provided in HUD CPD-25-01, OMB M-24-02, and OCRA's BABA policy, hereby affirm that, to the best of my knowledge and professional experience, the information presented herein is accurate. I acknowledge that infrastructure projects financed with Community Development Block Grant funds or other Federal Financial Assistance must comply with the Build America, Buy America Act and all associated guidance and regulations, and I understand the implications of non-compliance with these requirements.

Engineer/Architect Printed Name

Engineer/Architect Signature

Date

I, as Chief Elected Official and certifying official for the Grantee, hereby affirm that I have thoroughly verified the information presented herein and that, to the best of my knowledge, it is accurate. I acknowledge that infrastructure projects financed with Community Development Block Grant funds or other Federal Financial Assistance must comply with the Build America, Buy America Act and all associated guidance and regulations. I understand the implications of non-compliance and affirm that the Grantee will continue to maintain the project in compliance with all applicable requirements.

Chief Elected Official Printed Name

Chief Elected Official Signature

Date

Before submitting this BABA-01 form, refer to the "Submission Requirements" section of the instructions on page 7 for required documentation, submission instructions, and next steps.

Instructions

The BABA-01 form is required for all OCRA-awarded Federal Financial Assistance (FFA) to evaluate whether the Build America, Buy America Act (BABA) Buy America Preference (BAP) applies to the project, and, if applicable, to identify the Cognizant Agency responsible for BABA oversight, coordination, and compliance. This form supports standardized recordkeeping in accordance with 24 CFR 570.490, 2 CFR 200.334, and [HUD Notice CPD-25-01](#).

This form must be completed using current project information, including preliminary materials list and classifications. The Grant Administrator completes the form on behalf of the Grantee with input from the advising engineer/architect.

SECTION 1: GENERAL INFORMATION

Enter the relevant project information, including contact details for the Grantee, Grant Administrator, and engineer/architect.

SECTION 2: FUNDING SOURCE(S)

This section requires knowledge of all project funding sources and their BABA applicability, including any OCRA awards and any FFA from a non-OCRA federal/pass-through agency.

Question 2.1: Check the box(es) to indicate the project's OCRA-awarded FFA and complete any blanks in the applicable table row(s) with the required information. BABA applicability for each OCRA-awarded funding source has been pre-filled.

"HUD Appropriation Year(s)" Column: In the table portion of Question 2.1, **enter the HUD fiscal year appropriation(s) used to fund the project. This information should have been provided in the project's FEPS email. If you do not have this information, contact the Grant Services Team.** Your response must be accurate, as it may impact which materials are subject to BAP based on HUD's phased implementation timeline.

Question 2.2: If all additional project funding comes from local sources ONLY, select "No" and leave the table blank. If the project is co-funded in part with any non-OCRA FFA, select "Yes" and enter the required information for each funding source in the table, including the federal/state pass-through agency awarding the funding.

"Subject to BAP?" Column: For each non-OCRA funding source, consult the awarding agency to confirm BAP applicability to that source. If you indicate that any source is NOT subject to BAP, you MUST provide a letter from the awarding agency stating BABA does not apply to that funding source for the project. **Please note that if the project includes ANY BAP-applicable FFA, the entire project is subject to BAP, even if BABA does not apply to the OCRA-awarded funding.**

For Question 2.3, select the answer that aligns with the project's BAP-applicable funding source(s).

- If you answered "a" or "c," proceed to SECTION 3.
- If you answered "b" or "d," skip to SECTION 4 and check "No" on Question 4.1.1.

SECTION 3: APPLICABILITY ANALYSIS

This section evaluates BABA applicability for the OCRA-awarded portion of the project funding. Keep in mind that if ANY FFA is subject to BAP for the project, the ENTIRE project is subject to BAP, even if it does not apply based on OCRA funding.

3.1. Step 1: Type of Project or Activity (Question 3.1.1)

This question assesses whether the project meets the criteria for an **infrastructure project** as defined in reference to BABA.

BABA "Infrastructure Project" (from [2 CFR Part 184](#)): Any activity related to the construction, alteration, maintenance, or repair of public infrastructure in the U.S., regardless of whether it is the project's primary purpose. This includes, at minimum:

- Structures, facilities, and equipment that generate, transport, and distribute energy, including electric vehicle charging
- Structures, facilities, and equipment for:
 - Buildings and real property
 - Roads, highways, and bridges
 - Public transportation
 - Airports
 - Intercity passenger and freight railroads
 - Freight and intermodal facilities
 - Dams, ports, harbors, and other maritime facilities
 - Electrical transmission facilities and systems
 - Utilities
 - Water systems, including drinking water and wastewater
 - Broadband infrastructure

When determining if a project type not listed above constitutes "infrastructure," [2 CFR 184.4\(d\)](#) directs the federal agency to consider whether the project serves a public function, including if it is publicly owned and operated, privately operated on behalf of the public, or a place of public accommodation, as opposed to privately owned and not open to the public. [OMB M-24-02](#) provides the example that projects consisting solely of the purchase, construction, or improvement of a private home for personal use would not constitute a public infrastructure project for purposes of BABA.

For projects in which HUD CPD funds are the sole source of FFA, [Notice CPD-25-01](#) further clarifies that housing projects with one to four units are considered "private," consistent with HUD's definition of single-family housing. Therefore, these projects, including onsite utilities and related activities, are not considered public infrastructure and not subject to BAP.

OCRA's Owner-Occupied Rehabilitation (OOR) Program involves the improvement of private, owner-occupied, single-family homes for personal use, and each rehabilitation involves a separate homeowner application, environmental review, and specific focus and objectives. **Therefore, based on the federal guidance outlined above, projects under OCRA's OOR program do not constitute public infrastructure projects for the purposes of BABA applicability.**

For Question 3.1.1:

- If you answered "Yes," proceed to Step 2.
- If you answered "No," skip to SECTION 4 and check "No" on Question 4.1.1.

3.2. Step 2: Covered Materials and Phased Implementation Applicability

This section evaluates **which materials used in the project (if any) are subject to BAP for the OCRA-awarded FFA** based on **(1) the materials used in the project AND (2) which material categories are subject to BAP based on the HUD fiscal year appropriation(s) from which OCRA funds the project AND HUD's phased implementation schedule.**

Question 3.2.1: For this step, the engineer/architect must have a preliminary list of materials planned for use in the project and must classify each material into ONE of the covered categories described below. Check all material categories included in the project. If no covered materials in ANY listed category will be used, check "None Used."

OCRA acknowledges that project materials may change during the final design. **If the final design is completed after this form has been submitted and includes material changes that will ALTER the project's BABA applicability,** a new BABA-01 form with revised applicability determination **must be submitted** in time to prepare bid opening materials and hold a pre-bid conference by the pre-Release of Funds deadline.

Covered Material Categories:

- **Iron and Steel Products (IS):** An article, material, or supply that consists wholly or predominantly of iron, steel, or a combination of both.

Predominantly iron, steel, or a combination of both means that the cost of the product's iron and/or steel content exceeds 50% of the total cost of all its components. This includes the cost of the iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings utilized in the product's manufacture, as well as a good faith estimate of the cost of iron or steel components.

- **Specifically Listed Construction Materials (SLCM):** A subcategory of construction materials specifically identified in HUD's Phased Implementation Waiver as having an earlier BAP-applicability timeline, which is comprised of:
 - Plastic and polymer-based pipe and tube (including PVC pipe)
 - Non-ferrous metals
 - Composite building materials
 - Lumber
- **Not Listed Construction Materials (NLCM):** A subcategory of construction materials that are subject to BAP but not specifically identified in HUD's Phased Implementation Waiver. NLCMs include:
 - Plastic and polymer-based products other than composite building materials or plastic/polymer-based pipe or tube
 - Engineered wood
 - Fiber optic cable (including drop cable)
 - Optical fiber
 - Glass (including optic glass)
 - Drywall

- **Manufactured Products (MP):** Articles, materials, or supplies that have been processed into a specific form and shape or combined with other articles, materials, or supplies to create a product with different properties than the individual components. Items classified as IS, SLCM, NLCM, or Section 70917(c) materials* are not manufactured products. However, manufactured products may include these materials as components.

***Section 70917(c) Materials:** A specific class of raw materials listed in Section 70917(c) of BABA that are generally excluded from BAP. Section 70917(c) materials consist of cement and cementitious materials; aggregates such as stone, sand, or gravel; and aggregate binding agents or additives.

When these materials are used or mixed proximate to the worksite, such as wet concrete or hot asphalt, they are NOT subject to BAP. **However, if they are processed and formed into a specific shape before reaching the worksite (such as precast concrete products), the final products are classified as MPs and ARE subject to BAP.**

Question 3.2.2: Based on the project's OCRA-awarded FFA, the HUD fiscal year appropriation(s) of the funding (from Question 2.1), and HUD's phased implementation schedule from the table below, indicate whether each covered material category is subject to BAP. **The HUD fiscal year appropriation(s) OCRA will fund the project with should have been provided to you in the project's FEPS email.** If you need assistance, email the Grant Services team.

Note: If the project includes funds from more than one federal fiscal year, **use the most recent year**, as the project must comply with BABA requirements for the funding source with the broadest BAP application. For example, if the project includes CDBG funds from FY2024 and FY2025 HUD appropriations, based on FY2025 BABA applicability, IS, SLCM, NLCM, and MP are all subject to BAP.

Similarly, if the project is co-funded by non-OCRA BAP-applicable FFA, HUD's phased implementation timelines may not apply to the project, as other federal agencies may not have equivalent waivers. Consult the awarding agency for applicable requirements.

HUD BABA Phased Implementation Schedule for OCRA Programs

	Iron and Steel Products (IS)	Specifically Listed Construction Materials (SLCM)	Not Listed Construction Materials (NLCM)	Manufactured Products (MP)
Community Development Block Grant (CDBG)	FFA from HUD's FY2023 appropriation or later	FFA from HUD's FY2024 appropriation or later	FFA from HUD's FY2025 appropriation or later	FFA from HUD's FY2025 appropriation or later
Recovery Housing Program (RHP)	FFA from HUD's FY2024 appropriation or later	FFA from HUD's FY2024 appropriation or later	FFA from HUD's FY2025 appropriation or later	FFA from HUD's FY2025 appropriation or later

Question 3.2.3: If you select "None Used" in Question 3.2.1, provide a brief description of the infrastructure project, explaining why it DOES NOT use ANY covered materials. Otherwise, enter "Not Applicable" or "N/A."

For Step 2:

- If, for at least ONE of the material categories you checked in Question 3.2.1 (IS, SLCM, NLCM, and/or MP), you also checked that same category in Question 3.2.2, proceed to Step 3, Question 3.3.1.
- If at least ONE of the following applies, skip to SECTION 4 and check "No" on Question 4.1.1:
 - You checked "None Used" for Question 3.2.1 and completed Question 3.2.3.
 - You checked "None Apply" for Question 3.2.2 (if most recent OCRA FFA year – CDBG: FY2022/RHP: FY2023 or prior).
 - For ANY category you checked in Question 3.2.1, you DID NOT check that category in Question 3.2.2 (or vice versa).

3.3. Step 3: General Waivers

Grant Administrators must work with the engineer/architect to review the HUD General Waivers that may be used as an alternative to BAP compliance and determine their applicability to the project. The three (3) available waivers are:

- [Exigent Circumstances Waiver](#)
- [Small Grants Waiver](#)
- [Tribal Recipients Waiver](#)

Evaluate the applicability of each waiver, considering the project's qualifications. If you believe any waiver applies, you must email OCRA at cdbg@ocra.in.gov to request prior approval and upload the approval email with your BABA-01 submission.

For Step 3 (Questions 3.3.1, 3.3.2, and 3.3.3):

- If you answered "Yes" for ANY general waiver(s) from Step 3 (Questions 3.3.1, 3.3.2, AND/OR 3.3.3), proceed to SECTION 4 and check "No" on Question 4.1.1.
- If you answered "No" for ALL general waivers, proceed to SECTION 4 and check "Yes" on Question 4.1.1.

SECTION 4: APPLICABILITY DETERMINATION AND COGNIZANT AGENCY

Use your responses in SECTIONS 2 and 3 to determine whether the project is subject to BAP and, if so, which federal/pass-through agency is the Cognizant Agency.

4.1. Applicability Determination

Questions 4.1.1 and 4.1.2: Based on the analysis on this form and the project information, indicate whether BABA applies to the OCRA FFA and any non-OCRA FFA for the project. (Refer to SECTION 2 for BABA applicability to non-OCRA FFA.)

Question 4.1.3: If BABA applies to ANY source(s) of FFA for the project, answer "Yes, BABA DOES apply to the project."

4.2. Cognizant Agency (Question 4.2.1)

If the project is subject to BAP (Question 4.1.3), indicate which federal/pass-through agency is the Cognizant Agency responsible for BABA compliance, coordinating with other agencies, and submitting project waivers.

- **If the project IS NOT subject to BAP**, select "Not Applicable."
- **If the project IS subject to BAP:**
 - **Select "HUD/OCRA"** if OCRA's funding is BAP-applicable **AND (1)** it is the ONLY BAP-applicable source OR **(2)** it provides the greatest amount of FFA.
 - **Select "Other" and enter the federal/pass-through agency name** if a non-OCRA agency's funding is BAP-applicable **AND (1)** it is the only BAP-applicable source OR **(2)** it provides the greatest amount of FFA. (Refer to SECTION 2 for non-OCRA FFA.)

SECTION 5: AFFIRMATION

Before submitting this form, the Chief Elected Official and the engineer/architect must sign and date to affirm the accuracy of all information provided.

SUBMISSION REQUIREMENTS

Upload the completed and signed BABA-01 form in eGMS with all required Readiness to Proceed/FEPS (financial, engineering, permits, and site control) documents for the project.

Attach the following documentation to your upload (as applicable):

- **For any non-OCRA source(s) of FFA marked "No" in the "Subject to BAP?" column in Question 2.2:** A letter from the awarding agency stating that BAP does not apply to that funding source for the project.
- **For any general waiver selected in SECTION 3, Step 3 (Questions 3.3.1, 3.3.2, and 3.3.3):** Waiver approval email from OCRA.

Additional Note: If the BABA-01 applicability determination indicates BABA does not apply to the project AND you have included all supporting documentation listed above, you **ARE NOT REQUIRED** to submit any subsequent BABA forms **unless:**

- Final design changes alter the project's BABA applicability
If the project's final design is completed after BABA-01 submission and includes material changes that will ALTER the project's BABA applicability, a new BABA-01 form with revised applicability determination **MUST** be submitted in time to prepare bid opening materials and hold a pre-bid conference by the pre-Release of Funds deadline.