

Design, Construction & Regulatory Compliance

Buy America, Build America Act (BABA) - Frequently Asked Questions

08.06.26

Buy America, Build America Act (BABA)

Q: When is BABA applicable to my project?

A: BABA is applicable to those projects that receive Federal HOME or National Housing Trust Fund (NHTF) funds through IHDA from our respective HUD Grant Agreements signed on or after August 23rd, 2024. Impacted project development teams should be informed well in advance from appropriate IHDA staff as to whether BABA applies to your project.

Q: How will BABA compliance be tracked and reported?

A: Through the typical submittal review process, the General Contractor and Architect of Record will be responsible for tracking and reporting compliance with BABA to IHDA. Records of compliance should be submitted to IHDA Construction Compliance staff monthly at the scheduled pay app meetings, and before affected products are delivered to the project site. At construction closeout a complete submittal log, along with adequate backup documentation, will be submitted to IHDA for record. Then, IHDA will report compliance to HUD.

Q: What is the project-/product-specific waiver process for BABA?

A: The process to seek a waiver is as follows:

- IHDA will prepare a “BABA Waiver Request” with information, supplied by the Development Team, as required by the Made in America Office (MIAO).
- IHDA will submit a waiver application with all necessary information to HUD at <https://babawaiver.hud.gov/s/>.
- IHDA, in cooperation with the Development Team, will provide additional information as requested by HUD during the review process to proceed with public comment in the Federal Register and final approval by MIAO.
- HUD reviews waivers before they are posted to the Federal Register for public comment and sent to the MIAO for approval. If approved, the waiver is posted on MadeInAmerica.gov.
- The potential processing time for a project-/product-specific waiver could be upwards of 6 months.

Q: Does BABA apply to single-family housing projects?

A: No. The construction, maintenance, alteration, and repair of single-family (1 to 4 dwelling units) properties in HUD programs are not considered public infrastructure under Build America, Buy America Act (BABA) because they are generally private in nature, and they are not subject to the Buy America Preference (BAP).

For example, a development that included 45 single-family homes is not considered public infrastructure under BABA as they are generally private in nature and not subject to BAP.

The single-family exemption does not extend to community buildings, parks/playgrounds or public utility installations on a single-family style development. These would still be considered public infrastructure under BABA and would be subject to the BAP.

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For purposes of the HUD CPD Notice linked on IHDA's website, any references to "grantee" or "recipient" are meant for IHDA. Developers, contractors, subcontractors, etc. would be classified as subrecipients.