

## Idaho Office of Energy & Mineral Resources (OEMR)

### Build America Buy America Waiver Request Template

This template is for submitting a waiver request to the Build America, Buy America requirements. According to the Build America Buy America Act (BABAA), "none of the funds made available for a Federal financial assistance program for infrastructure...may be obligated for a project unless all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States."

Waivers are explained in the Office of Management and Budget Memorandum 24-02 (Attachment A) and required by the Infrastructure Investments and Jobs Act (IIJA) sections 70901 through 70952. OEMR also follows the Department of Energy (DOE)'s Implementation of the Buy America Requirement for Infrastructure Projects (Attachment B). Each waiver request must provide responses to the form questions, as applicable. Instructions can be found on pages 8 through 10 of this document. Contact your OEMR Project Coordinator (PC) for additional assistance with completing this template.

The applicant/sub-recipient needs to complete questions 1 through 16, sign and certify the form, and email/submit the waiver request to the OEMR PC. The OEMR PC will then forward it on to the correct DOE Project Officer to evaluate the request.

Applicants or subrecipients must ensure this waiver request is used judiciously and construed to ensure the maximum utilization of goods, products, and materials produced in the United States.

If more space is needed, please attach the file that contains the response. Please use the filename to reference which question corresponds with the file attached.

Required fields are marked with an asterisk (\*)

Questions to be Answered by the Applicant or Subrecipient	
<b>1. Submitter Type: *</b> <input type="checkbox"/> Applicant <input type="checkbox"/> Subrecipient	
<b>2. Submitter Contact Information *</b>	
Legal Name	Unique Entity Identifier (UEI)
Address/City/County/State/Zip	
<b>3. Submitter First &amp; Last Name *</b>	
<b>4. Submitter Email *</b>	<b>5. Submitter Phone Number *</b>
OEMR Use Only	
Award Information (FAIN, CFDA)	
Reviewed By/Date	

**6. Describe the project, its location, and the specific infrastructure involved. \***

**7. Total estimated project cost, with estimated federal share and recipient cost share breakdowns. \***

**8. Total estimated infrastructure costs, with estimated federal share and recipient cost share breakdowns. \***

**9. Is this waiver for a specific product or category of products? Check one below: \***

- Specific Product
- Category of Products

**10. Listing of Materials, Technical Specifications and Quantity: \***

List and describe iron or steel item(s), manufactured goods, and/or construction material(s) the recipient seeks to waive from the BABAA requirements, including name, cost, quantity(ies), country(ies) of origin, and relevant Product Service Codes (PSC) and North American Industry Classification System (NAICS) codes for each. Links to manuals below that provide the PSC and NIACS codes:

PSC Codes: <https://www.acquisition.gov/psc-manual>  
NAICS Codes: <https://www.census.gov/naics/>

**10.1 Detailed justification as to how the non-domestic item(s) is/are essential to the project: \***

## 11. Waiver Type \*

Choose one of the three waiver types listed in this section and only answer the questions applicable to the chosen waiver type. Refer to instruction pages for waiver type definitions.

- **Nonavailability waivers:** Complete questions 11.1.1 and 11.1.2
- **Unreasonable Cost waivers:** Complete questions 11.2.1, 11.2.2, and 11.2.3
- **Public Interest waivers:** Complete question 11.3

### 11. 1 Nonavailability Waiver

Applicable responses to the following are required:

11.1.1 A description of due diligence performed by the applicant or subrecipient, procurement/purchasing departments, engineers, architects, or contractors, including names and contact information of the manufacturers, distributors, or suppliers contacted for quotes (minimum 3), and the responses provided.

11.1.2 If you are requesting a non-availability waiver because the lead time to obtain a BABAA compliant item is excessive, indicate below how the difference in lead time between a BABAA compliant and non-compliant item is going to cause the project to miss a significant milestone or deadline.

**11.2**  **Unreasonable Cost Waiver**

11.2.1 What is the additional cost of the BABAA compliant items, compared to using iron and steel, manufactured products, and construction materials of non-domestic or unknown origin? Attach documentation of prices for BABAA compliant and non-compliant items to be included in the cost comparison.

11.2.2 What is the additional administrative cost for compliance with BABAA requirements? Attach a certification from a project manager, contractor or engineer attesting to the actual or expected additional administrative costs.

11.2.3 Include a comparison of total project costs between BABAA compliant vs. non-compliant materials to show that BABAA compliance increases total project cost by more than 25 percent (see instructions for optional example).

11. 3  **Public Interest Waiver**

Explain how waiving the BABAA requirement for this project serves the public interest.

**12. Additional Waiver Information**

Provide any additional information for DOE's consideration of the requested waiver.

**13. Anticipated Impacts \***

Identify any anticipated impacts if no waiver is issued.

**14. Certifying Official Name: \***

**15. Certifying Official Signature: \***

**16. Date of Certification: \***

## Instructions

- 1. Submitter Type:** Select a submitter type. Applicant (if submitting pre-award) or Subrecipient (if submitting post-subaward agreement).
- 2. Submitter Contact Information:**

**Legal Name:** Enter the legal name of the subrecipient or potential subrecipient that is seeking a waiver under the award. This is the organization that has registered in the System for Award Management (SAM).

**UEI:** Enter the organization's Unique Entity Identifier (UEI) received from SAM. The UEI is a unique 12-character organization identifier.

**Address:** Enter the address of the organization. Include address, city, state, county and 9-digit zip postal code. If +4 does not exist on the zip/postal code or it is unknown for the address, enter "0000".
- 3. Submitter First and Last Name:** Provide the first and last name of the person submitting the waiver request.
- 4. Submitter Email:** Enter the email of the person submitting the waiver request.
- 5. Submitter Phone Number:** Enter the area code and phone number of the person submitting the waiver request. Include the phone extension as well if applicable.
- 6. Describe project, its location, and the specific infrastructure involved.** Describe the project (what the funding is being used for). The location can be an address, description of an area, or Global Positioning System (GPS) location information. Infrastructure is defined in Attachment B, Section I. Definitions.
- 7. Total estimated project cost, with estimated federal share and subrecipient cost share breakdowns.** Report the total funding amount for the award. This includes federal funds and may include non-federal funds (cost-share/match). Show the federal and non-federal amounts separately and include a totaled sum.
- 8. Total estimated infrastructure costs, with estimated federal share and subrecipient cost share breakdowns.** List the portion of the total award amount that represents construction or installation costs, including federal funding and any non-federal (cost-share/match). Show the federal and non-federal amounts separately and include a totaled sum.
- 9. Is this waiver for a specific product or category of products?** Check the box next to specific product or category of products.

Example:  
9a: Product waiver: 8-inch stainless steel valves  
9b. Category of products: all valves on the project
- 10. Listing of Materials, Technical Specifications and Quantity:** List and provide a description of iron or steel item(s), manufactured goods, and/or construction material(s) the subrecipient or applicant seeks to waive from the BABAA requirements. List the name of the product, how much the product costs (in USD), the country or countries of origin, the quantity or quantities of the product needed for the project, and the relevant PSC and NAICS for each product.

List each item separately and refer to the definitions of Construction Materials and Manufactured Products in Attachment B, Section I. Definitions.



**10.1 Detailed justification as to how the non-domestic item(s) is/are essential to the project.**

Describe why the non-domestic products or items are necessary to complete the project.

**11. Waiver Type:** Choose one of the three waiver types listed in this section and only answer the questions applicable to the chosen waiver type.

**Nonavailability waivers:** Complete questions 11.1.1 and 11.1.2

**Unreasonable Cost waivers:** Complete questions 11.2.1, 11.2.2, and 11.2.3

**Public Interest waivers:** Complete question 11.3

**11.1 Nonavailability Waiver** Check this box if seeking a Nonavailability Waiver. This waiver means that the types of iron, steel, manufactured products, or construction materials for an infrastructure project are not produced in the United States in sufficient and reasonable available quantities or of a satisfactory quality. This waiver requests that DOE waive the application of the BABAA domestic preference. Due diligence must be demonstrated by the recipient and that a good faith effort was made to find BABAA compliant products. This could include examples of market research; industry outreach; solicitation for bids, requests for proposals, contracts, and non-proprietary communications with potential suppliers.

For this waiver, the following require a response:

**11.1.1 A description of due diligence performed by the applicant or subrecipient, procurement/purchasing departments, engineers, architects, or contractors, including names and contact information of the manufacturers, distributors, or suppliers contacted for quotes (minimum 3), and the responses provided.**

**11.1.2 If you are requesting a non-availability waiver because the lead time to obtain a BABA compliant item is excessive, indicate below how the difference in lead time between a BABA compliant and non-compliant item is going to cause the project to miss a significant milestone or deadline.**

**11.2 Unreasonable Cost Waiver** Check this box if seeking an Unreasonable Cost Waiver. This waiver is used if the inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent. This waiver is requesting DOE to waive the application of the BABAA domestic preference. Documentation must be provided that shows that no domestic alternatives are available within the cost parameter. Publicly available cost comparison data may be provided in lieu of proprietary pricing information.

For this waiver, the following require a response:

**11.2.1. What is the additional cost of the BABAA compliant items, compared to using iron and steel, manufactured products, and construction materials of non-domestic or unknown origin? Attach documentation of prices for BABAA compliant and non-compliant items to be included in the cost comparison.**

**11.2.2 What is the additional administrative cost for compliance with BABAA requirements? Attach a certification from a project manager, contractor or engineer attesting to the actual or expected additional administrative costs.**

**11.2.3 Include a comparison of total project costs between BABAA compliant vs. non-compliant materials to show that BABAA compliance increases total project cost by more than 25 percent.**

Documentation can include quotes from suppliers or bid tabulations from bid actions which solicited both BABAA compliant and non-compliant products. When documenting additional administrative cost, attach a certification from the engineer or contractor attesting to the actual or expected additional administrative cost. It is important to show a summary comparison (example below) of the BABAA compliant project costs

vs. the non-compliant project costs and that there is at least a 25% increase in costs in the BABAA compliant project.

Example of how applicant or subrecipient could show BABA-compliant vs. non-compliant cost comparison:

Item	BABAA-Compliant Cost	Non-Compliant Cost
Construction Contracts		
Architecture/engineering services		
Subcontracts		
Permitting		
Administrative Funds		
Equipment		
Other		
<b>Total Project Cost</b>		

**11.3 Public Interest.** Check this box if seeking a Public Interest Waiver. This waiver is used if applying the domestic content procurement preference would be inconsistent with public interest. Documentation for this waiver could include demonstrating definite impacts on the community if specific items, products or materials are not utilized in an infrastructure project.

For this waiver, the following requires a response:

**Explain how waiving the BABAA requirement for this project serves the public interest.**

**12. Waiver Additional Information:** Include any additional information for DOE’s consideration of the requested waiver.

**13. Anticipated Impacts:** Identify any anticipated impacts if no waiver is issued. Provide a narrative that will explain the impact to the award, project, or the public should the waiver be denied.

**14. Certifying Official Name:** The name of the person from the applicant or subrecipient agency that is certifying this waiver request.

**15. Certifying Official Signature:** The signature of the person from the applicant or subrecipient organization who is certifying the waiver request will sign this section.

**16. Date of Certification:** Prove the date (MM/DD/YYYY) that the signature was provided.

For examples on currently approved waivers, please visit [DOE Buy America Requirement Waiver Requests](#).

Attachment A

Attachment B