**Waiver Request Category**

**1. Select the category of waiver that is being requested**. – Please choose one of the following waiver category types:

* **Product Waiver** – Select this if the waiver request is to apply only to a product or a group of products.
* **Non product waiver** – Select this for waivers that do not relate specifically to products. In general, these waivers would be most appropriate for waivers justified based on a public interest reason (e.g. application of BABA to a grantee that has difficulty purchasing BABA compliant products because it is remote from the United States and so would have difficulty carrying out grant functions).

**Product Information**

**2. Select the product type for the waiver request.** – Please choose one of the following product types:

* **Iron or Steel** – Select this if the product (or one of the products if the waiver request focuses on a group of products) that is the subject of the waiver request fits in the category of an iron or steel product – that is, it is made primarily of iron or steel and does not fit the definition of a “manufactured product.”
* **Manufactured Product** – Select this if the product (or one of the products if the waiver request focuses on a group of products) that is the subject of the waiver request fits in the category of a “manufactured product.” This would apply to products that contain multiple components that have been combined together through a manufacturing process. Items that consist of two or more of the listed construction materials below that have been combined together through a manufacturing process, and items that include at least one of the listed construction materials combined with a material that is not listed through a manufacturing process, should be treated as manufactured products, rather than as construction materials. For example, a plastic framed sliding window should be treated as a manufactured product while plate glass should be treated as a construction material.
* **Construction Material** - Select this if the product (or one of the products if the waiver request focuses on a group of products) that is the subject of the waiver request fits in the category of a “construction material.” Construction materials includes an article, material, or supply that is or consists primarily of:
* non-ferrous metals;
* plastic and polymer-based products (including polyvinylchloride, composite building
* materials, and polymers used in fiber optic cables);
* glass (including optic glass);
* lumber; or
* drywall.

Construction materials do not include:

* item of primarily iron or steel;
* a manufactured product;
* cement and cementitious materials;
* aggregates such as stone, sand, or gravel; or
* aggregate binding agents or additives.

If requesting a waiver for a group of products, select all that apply (i.e. more than one).

**3. Name the iron or steel item(s), manufactured product(s), and/or construction material(s) for the waiver request.** - List the name (or names if applying for a waiver for a group of products) of the iron or steel item(s), manufactured products, and/or construction material(s) proposed to be excepted from Buy America requirements.

*This question is skipped if “Non product waiver” is selected.*

**4. List the technical specifications description of item to be waived, if applicable. -** Provide a brief description of the product(s) named in the previous question. If part of the reason the grantee is seeking a waiver relates to technical specifications, describe the specifications. For example, to install a windscreen the nuts and bolts must meet a particular specification (e.g. must be 90% titanium alloy) or to install a weather resistant deck, the wood must have a key characteristic (e.g. wood from teak trees). The description needs to focus on the necessary product aspect that is essential to the project (e.g. nut and bolt with X tensile strength so it must be titanium or wood with X resistance to water/chemicals).

The description should also include the estimated cost, country(ies) of origin (if known), and relevant Product Service Code (PSC) and North American Industry Classification Codes (NAICS) for each (if known). Links to manuals that provide the PSC and NAICS codes can be found below.

PSC Codes: [Product and Service Code Manual - Acquisition.GOV](file:///\\usda\ocfo\SHARED\DCWA2\OCFO\CFODATAShare\TARD\Buy%20American%20and%20Hire%20American_BAHA\Wavier%20Request%20form\BABA%20Waiver%20Request%20Common%20Form\Product%20and%20Service%20Code%20Manual%20-%20Acquisition.GOV)

NAICS Codes: <https://www.census.gov/naics/>

*This question is skipped if “Non product waiver” is selected.*

**Waiver Level**

**5. Indicate the level of waiver requested. -** Please choose the appropriate waiver level:

* **Project specific** – Select this level if the waiver is to apply to a specific Infrastructure Project. Project specific applies to an entire infrastructure project, even if it is funded by both Federal and non-Federal funds under one or more awards.
* **Award or Grant level** – Select this level if the waiver is to apply to a particular grant or award. An example of this might a grant for a specific urgent purpose such as cleaning up a toxic waste site.
* **Broader Scope** - Select this level if the waiver is to apply to multiple projects and/or multiple grants or awards. This could be for instances where a particular product or group of products is widely unavailable (e.g. there is a shortage of American lumber in the Southwest because of a shipping disruption). Alternatively, this might be appropriate if there is a public interest justification that applies on a broad basis (e.g. all of the grantees in an area that are impacted by a hurricane have such difficulty obtaining products that BABA should be suspended even for grant funding that is not already excluded because it was awarded pursuant to the Stafford Act – that is through the Federal Emergency Management Agency).

**6. Describe the scope of the waiver. -** For the waiver level selected in the previous question, provide the following information.

* If project specific, describe the infrastructure project including geographic location. The location can be an address including street, city, state, country, and postal code. The location might be a group of buildings in which case provide multiple addresses. If the location of buildings is already identified in a HUD system (e.g. a development/Asset Management Project or AMP in the IMS/PIC system), provide the necessary information to identify the location (e.g. provide the IMS/PIC development/AMP number).
* If award or grant, list the award or grant number(s).
* If broader scope, describe the scope of the waiver (e.g. nationwide, New Mexico and Arizona).

**7. Describe the potential impact if no waiver is issued. -** Please provide a narrative that will explain the impact to the project, grant/award, or the public should HUD not grant the waiver. For example, the Anytown Housing Authority (AHA) is replacing its obsolete and failing heating oil boiler system with heat pumps with a Coefficient of Performance (COP) rating of 3.5. Based on AHA’s research, it is unable to find a manufacturer/supplier that has 20 heat pumps rated at a COP of 3.5 in stock. The earliest a BABA compliant version will be available at the required specification in the required quantity is 9 months. Having to wait 9 months will mean that the property will have to go through another winter with the obsolete-failing expensive to operate boiler system leading to higher expense and risk of failure during the winter heating season.

**Waiver Type - Nonavailability waiver**

**8. Are you applying for an Nonavailability waiver? – Choose Yes or No.** Nonavailability applies if BABA compliant products (i.e. types of iron, steel, manufactured products, or construction materials) are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality.

**9. Description of market research. -** Describe the research into the availability of a BABA compliant product including:

* A description of the due diligence performed by the grantee/applicant, engineer/architect, or contractor, including names and contact information of the manufacturers, distributors, or suppliers contacted for quotes and the responses provided or a note that the contact did not reply;
* how the search was conducted (e.g., internet search, inquiries directed to specific potential product sources, etc.);
* how many potential product sources were contacted; and
* the results of the search that justify the conclusion that a BABA compliant product is not available within a reasonable time frame at the needed quantity or quality level.

**10. Description of Quantity issues (if applicable):** If a BABA compliant product is available in a reasonable time frame and the issue is the quantity of the BABA compliant product available, provide:

* a description of the needed quantity;
* the impact of the lack of quantity on the project;
* an evaluation of the feasibility of using BABA compliant products as much as possible; and
* resorting to purchase of non-BABA compliant projects for a portion of the quantity required.

*Enter N/A if not applicable.*

**11. Description of Quality issues (if applicable):** If a BABA compliant product is available in a reasonable time frame and the issue is the quality of the BABA compliant product, provide a description of the quality difference and its impact.

*Enter N/A if not applicable.*

**Waiver Type - Increased Cost waiver**

**12. Are you applying for an Increased Cost waiver? – Choose Yes or No.** Increased Cost waivers would apply when a BABA compliant product – or group of products - is available in sufficient quantity and quality, but the product(s) increases the cost of the project by more than 25%.

Note, this only applies if the cost of the overall project increases by more than 25%, not just the cost of the specific item.

**13. Provide description of the total project cost using BABA compliant product(s) in comparison to using non-BABA compliant products:** For requests citing unreasonable cost as the statutory basis of the waiver, the waiver justification must include, as applicable, a comparison of the cost of the domestic product(s) to the cost of the non-BABA compliant product(s). Publicly available cost comparison data may be provided in lieu of proprietary pricing information. The descriptions must itemize the major cost components of the project and specific descriptions of each product for which a waiver is sought and its BABA compliant vs. BABA non-compliant cost.

The Department understands that the space provided on this form may be inadequate to provide the required information. If that is the case, provide summary information in the form with a note that detailed information will be provided by email. Shortly after the applicant submits the waiver, the Department will send an email acknowledging receipt to the point of contact provided with this request but will also send an email to the official email address of the grantee. This email to the grantee will request official email confirmation of the request and also provide an opportunity for the applicant to email attachments that will be connected with the waiver form. In this instance it would be appropriate to attach a table (either in Microsoft Word or Excel format) that would have a column with the name of the product, a column with the estimated cost of the BABA compliant product and a separate column with the estimated cost of the non-BABA compliant product. In addition, the applicant must provide the other anticipated costs not related to the purchasing of the products on the table so that the total cost of the project with and without BABA compliant purchases can be determined. See example below:

Table 1Example table providing total project cost breakdown using BABA compliant products in comparison to non BABA compliant products

| Product Name | Estimated cost for BABA compliant product(s) | Estimated cost for non-BABA compliant product(s) |
| --- | --- | --- |
| Heat pump – COP 3.5 | $60,000 | $36,000 |
| Corrosion resistant Vents | $40,000 | $24,000 |
| All other project costs (installation, permitting, overhead, profit) | $12,000 | $12,000 |
| Total Project cost | $112,000 | $72,000 |
| Percentage difference | 156% |  |

**Waiver Type - Public Interest waiver**

**14. Are you applying for a Public Interest waiver? – Choose Yes or No.** Select yes if the primary reason for the request is not nonavailability of a product or group of products or increased costs. A public interest justification can apply to a product or group of products (e.g. the only the non-BABA compliant version of the product complies with the local environmental code). Alternatively, a public interest justification could seek a waiver of the BABA requirement for reasons that are not related to products (e.g. all of the grantees in an area that are impacted by a hurricane have such difficulty obtaining products that BABA should be suspended even for grant funding that is not already excluded because it was awarded pursuant to the Stafford Act – that is through the Federal Emergency Management Agency).

**15. Provide a narrative justification that clearly states how the public interest would be adversely affected by BABA compliance and what the adverse impacts would be if no waiver is issued.** - Please provide a narrative that will explain the impact to the project, grant/award, or the public should HUD not grant the waiver.

**Waiver Period**

**16. Indicate the length of time of the waiver request. -** Please provide a definite time frame (i.e. three months, one year, or until project completion) designed to cover the minimum time the waiver would be necessary.

**Financial Assistance Information**

**17. Provide the Federal financial assistance program name, if known.** - Please **e**nter the name of the grant or award in this blank.

**18. List the grant number(s) or Federal Financial Assistance identifier(s).** - Please enter the grant or award number(s) or identifier(s) in this blank.

**19. Provide the total Federal funding amount for the infrastructure project. -** Please report the total amount of Federal funding amount for the award, in whole dollars.

Federal financial assistance means assistance that non-Federal entities receive or administer in the form of grants, cooperative agreements, non-cash contributions or donations of property, direct assistance, loans, loan guarantees, and other types of financial assistance.

**20. Provide the total non-Federal funding amount for the infrastructure project.** - If the project includes funds from a non-Federal source, sometimes known as cost sharing or match (cost-sharing), please report the total amount of non-Federal funding in the blank.

**21. List the legal names of subgrantees, contractors, or other grantee affiliates) authorized to purchase the waived product if approved.** – Enter the legal names of entities authorized to make purchases of approved BABA waived items.

*Enter N/A if the grantee is procuring directly.*

**Requestor Information**

**In this section, please provide the following grant information and a contact person who can answer questions regarding you BABA domestic-sourcing requirement waiver request.**

**22. Provide the name of the grantee or other entity requesting waiver (e.g. Mainstreet Housing Authority). -** Please enter the name of the entity requesting the waiver (e.g., Mainstreet Housing Authority).

**23. Provide the HUD Grantee code. -** Please enter the HUD Grantee code (e.g., the Housing Authority code)

**24. Provide the business phone number of the requestor. -** Please enter the business phone number for the best point of contact for this waiver request. Please include the area code, phone number and phone extension, if applicable.

**25. Provide the business email of the requestor. -** Please enter the business email of the best point of contact for this waiver request.

**26. Provide the business title of the best point of contact for inquiries about this waiver request (e.g. the Executive Director, the Construction Manager, etc.). -** Please enter the business title of the best point of contact for this waiver request.

**Additional Information**

**27. Reserved #1 for requestor's optional use to insert Requestor tracking information or notes; however, any optional information provided is available to the public.**

**28. Reserved #2 for requestor's optional use to insert Requestor tracking information or notes; however, any optional information provided is available to the public.**