

MAINEHOUSING DOE BABA CHECKLIST

Applying BAP and Waivers to DOE Weatherization Assistance Programs

Project Name:

Project Location:

Step 1: Type of project/activity

Are the funds being used for an infrastructure project, as defined by BABA?

YES

NO

If **YES**, proceed to Step 2.

If **NO**, BAP does not apply.

Step 2: Funding Source

Check the funding sources that apply:

- WAP Annual Formula Grants for Program Year (PY) 2022 and beyond
- WAP Bipartisan Infrastructure Law (BIL) Grants
- WAP Enhancement & Innovation (E&I) Grants
- WAP Sustainable Energy Resources for Consumers (SERC) Grants
- WAP Community Scale Pilot Program (CSPP) Grants

If none of these funding sources apply, BAP does not apply.

If one of these funding sources apply and are the largest portion of Federal funds contributed to the project, proceed to Step 3.

If they are not the largest portion of Federal funds then the BABA requirements for the largest source of Federal funds will apply. What is the largest source of Federal funds:

Step 3: Materials

Identify the materials that will be used in this infrastructure project. Check all that apply.

- Iron and Steel
- Specifically Listed Construction Materials
- Not-Listed Construction Materials
- Manufactured Products

If any of these materials are being used, proceed to Step 4.

If none are being used, BAP does not apply.

Step 4: Date of Award

Identify the date of the DOE Award.

Funding Source	Date of Award

Determine if a waiver is being requested or needed. If **YES**, proceed to Step 5.

Step 5: Project-Specific Waivers

Determine if a Project-specific waiver applies. Project-specific waivers are available on limited, case-by-case basis, after HUD’s consultation and review with OMB’s Made In America Office (“MIAO”).

- Public Interest Waiver
 - Would applying the BAP to the project be inconsistent with public interest?
 YES NO

- Nonavailability Waiver
 - Is a particular iron, steel, manufactured product, or construction material not produced in the United States in sufficient quantities or of a satisfactory quality?
 YES NO

- Unreasonable Cost Waiver
 - Would the inclusion of iron, steel, manufactured products or construction materials produced in the United States increase the cost of the overall project by more than 25%?
 YES NO

If you answered **YES** to any of the above, review the DOE Project-Specific Waiver Form submitted by the Contractor and ensure proper documentation has been provided to justify the waiver. If the waiver is justified, approve the DOE Project-Specific Waiver Form and proceed to Step 6.

If you answered **NO** to all of the above, or if the waiver is not justified, BAP applies and the Contractor will have to comply with it. Complete the DOE Project-Specific Waiver Form denying the request. Then skip to Step 7.

Step 6: Submitting a Project-Specific Waiver to DOE

1. Prepare the Department of Energy – Weatherization Assistance Program Build America, Buy America Waiver Request.
2. Submit a waiver application with all necessary information to MaineHousing’s DOE PO.
3. Provide additional information as requested by DOE during the review process to proceed with public comment, and final approval by DOE.

Step 7: Compliance

1. Did the Subgrantee include the following language on the project’s Work Order that went out for bid?

All Contractors must comply with the requirements of Section 70914 of the Infrastructure Investment and Jobs Act, and all applicable rules and notices, as may be amended. Pursuant to DOE’s Memorandum, reissued February 23, 2024, “Weatherization Assistance Program “Build America, Buy America” Requirements – Revised”, awards made by the DOE Weatherization Assistance Program after May 14, 2022 are subject to BABA requirements, unless excepted by a waiver. This only applies to weatherization on public housing or on privately owned buildings that serve a public function.

The Build America, Buy America Act (BABA) requires that all iron, steel, manufactured products, and construction materials used for federally funded infrastructure projects are produced in the United States, unless otherwise exempt or subject to an approved waiver. Contractors will be responsible for documenting compliance and ensuring that all subcontractors provide the required information to document compliance. Please see MaineHousing’s Compliance and Implementation Plan for Build America, Buy America for more information.

YES NO

2. Did all the bidders for the project complete a DOE Bidder Certification Form?

YES NO

3. Did the Contractor complete the Build America, Buy America Construction Material Spreadsheet prior to the start of construction?

YES NO

4. Did the Contractor submit quarterly Construction Material Spreadsheets?

YES NO

5. Do the Build America, Buy America Construction Material Spreadsheets properly classify the products?

YES

NO

6. Are the Build America, Buy America Construction Material Spreadsheets complete?

YES

NO

7. Has Contractor attached proper certifications for each product certifying that the products are made in America?

YES

NO

8. Upon completion of construction, prior to final payment, did Contractor execute a Build America, Buy America Self-Certification?

YES

NO

If you answered NO to any of the above questions and a waiver does not apply you must go back to the Contractor and have the items completed. Please explain corrective actions:

Signature
Name and Title:

Date