

Build America Buy America

Subrecipient Contract Language

Source: CPD 25-01

XI. Subrecipient Compliance with BABA Requirements

The terms and conditions of Federal awards attach to the Federal Financial Assistance (FFA) and flow down to subrecipients at all tiers. This means that all subgrantees, contractors, developers, etc., who receive Covered CPD Program funds (HOME Investment Partnerships and Federal Housing Trust Fund) through a CPD grantee must comply with BABA requirements. Language notifying subrecipients that the procurement of materials for public infrastructure projects must comply with the Buy American Preference must be included in all subawards, contracts, purchase orders, requests for proposals, and all other relevant procurement and bid documents. Language that grantees may use for this purpose is included below.

Pursuant to the Build America, Buy America Act (BABA), enacted as part of the Infrastructure Investment and Jobs Act (IIJA). Pub. L. 117-58, 41 U.S.C. § 8301 note, the Federal Financial Assistance used to fund this infrastructure project is required to apply a domestic content procurement preference (the “Buy America Preference” or “BAP”) for all construction, alteration, maintenance, or repair of infrastructure, including buildings and real property, unless application of the BAP has been waived by HUD. Additional details on fulfilling the BABA requirements can be found at <https://www.hud.gov/baba>

_____ (developer name) (“Developer”) must comply with the requirements of the Build America, Buy America Act (BABA), 41 USC 8301 note, and all applicable rules and notices, as may be amended. Pursuant to HUD’s Notice, “Public Interest Phased Implementation Waiver for FY 2022 and 2023 of Build America, Buy America Provision as Applied to recipients of HUD Federal Financial Assistance” (88 FR 17001), any funds obligated by HUD on or after the applicable listed effective dates, are subject to BABA requirements, unless excepted by a waiver.