

Build America, Buy America - State of Iowa

Presenter:

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Today's Topics

- ▶ Iowa's Process
- ▶ What's Working > What Needs Work
- ▶ Questions

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Creating the Process

- ▶ BABA is applicable to most HUD programs, including:
 - Community Development Block Grant (CDBG)
 - HOME
 - Housing Trust Fund
- ▶ Goal to make it as simple as possible
 - ▶ Training, training, training

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Contract Language

- ▶ The Grantee must comply with the requirements of the Build America, Buy America (BABA) Act, 41 USC 8301 note, and all applicable rules and notices, as may be amended, if applicable to the Grantee's infrastructure project. Pursuant to HUD's Notice, "Public Interest Phased Implementation Waiver for FY 2022 and 2023 of Build America, Buy America Provisions 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.

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Is BABA Applicable?

- ▶ Is your project a defined infrastructure project? > No? BABA does not apply
- ▶ Is your project using a covered Federal program? > No? BABA does not apply
- ▶ Does your project use iron, steel, defined construction materials and manufactured products? > No? BABA does not apply
- ▶ Yes to all three? Congratulations! BABA applies to your project

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Certifications

- ▶ Engineer or architect will list all BABA-covered products in the bid packets.
- ▶ The contractor will then begin submitting manufacturer certifications for each BABA-covered product to the grant administrator. The grantee will be required to keep records of the certification documentation consistent with existing records retention.
- ▶ Grantees will take the engineer or architect's list of BABA-covered products and the contractor's corresponding certifications and include that information in the Grant Portal throughout the project.

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Certifications

- ▶ **No construction activity request for reimbursement will be approved without certification that the contractor has met BABA requirements for that respective claim.**
- ▶ For each construction activity request for reimbursement, the contractor and engineer will certify that materials used for that respective pay request is BABA-compliant.
- ▶ Grantees will keep all product certifications in their project file and during monitoring (half-way through the project) we will do a random sampling of several products to ensure that there are, in fact, certifications connected to those products.

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Certifications

- ▶ Grantees job to ensure that each item from the engineer or architect's list has a corresponding and appropriate certification as well as tracking any change orders in the project that will utilize new BABA-covered products.
- ▶ The absence of a product certification could trigger the waiver request process.

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Waivers

- ▶ There are three available categories for project- and product-specific waivers:
 - Public interest
 - Non-availability
 - Unreasonable cost
- ▶ De Minimis Waiver

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What's Working

- ▶ Trainings and Education
 - ▶ Reviewing Plans, Specs and Bid Docs
 - ▶ Attending Pre-Con Meetings
- ▶ Water and Sewer Projects
 - ▶ Extension of American Iron and Steel (AIS)
- ▶ Documentation gathering
 - ▶ Product certifications are available, accessible

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What Needs Work

- ▶ Increased costs
- ▶ Housing projects
 - ▶ A lot of parts - does it have to be BABA compliant?
 - ▶ Many products are not BABA compliant forcing the waiver process
- ▶ Bottom Line - this is a work in progress

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Thanks!

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