



# Buy America Preference Applicability Checklist

*For Projects Receiving HUD Financing*

This checklist is a tool to assist with determining if the Buy America Preference (BAP) applies to a public infrastructure project funded by federal financial assistance (“FFA”), i.e. HUD financing. KHC requires a signed copy upon award of FFA to be retained for recordkeeping purposes.

## Project Information

<b>Grantee</b>	Kentucky Housing Corporation
<b>Sub-Grantee (Project Owner)</b>	
<b>Activity Name</b>	
<b>County</b>	
<b>Activity Number (RN#)</b>	

**Step 1.** Determine if the project is a public infrastructure project according to [2 CFR §184.3](#), and [2 CFR §184.4\(c\)](#), and agency guidance.

Yes	Continue to Step 2.
No	The BAP does not apply. The BAP only applies to public infrastructure projects. <b>Stop here.</b>

**Step 2.** Is the project funded using a Covered CPD Program? Check the box below for each CPD program funding used in this project.

## Covered CPD Programs

<input type="checkbox"/>	HOME	<input type="checkbox"/>	HOPWA
<input type="checkbox"/>	NHTF	<input type="checkbox"/>	VHRMP
<input type="checkbox"/>	CDBG	<input type="checkbox"/>	CPF/EDI
<input type="checkbox"/>	Section 108	<input type="checkbox"/>	Section 4
<input type="checkbox"/>	RHP	<input type="checkbox"/>	Rural Capacity Building
<input type="checkbox"/>	ESG	<input type="checkbox"/>	PRO Housing
<input type="checkbox"/>	CoC	<input type="checkbox"/>	PRICE

- If you selected **any** Covered CPD Program, answer **YES**.
- If no Covered CPD Programs were selected, answer **NO**.

Yes	Continue to Step 3.
No	The BAP does not apply. The project is not funded by a covered program. <b>Stop here.</b>

**Step 3.** Will the project use Covered Materials?

*Each material should be classified into only one category: iron and steel, specifically listed construction materials, not listed construction materials, or manufactured products. This classification is necessary to apply HUD’s Phased Implementation Waiver.*

Check the box below for each type of covered material incorporated into this infrastructure project, as defined in [CPD Notice 25-01](#), [2 CFR §184.3](#), and [2 CFR §184.4](#).

	Iron or steel
	Specifically Listed Construction materials
	Not Listed Construction materials
	Manufactured products

If you checked any boxes above, answer **YES**.

Yes	Continue to Step 4.
No	The BAP does not apply to this project because it will not incorporate any Covered Materials. <b>Stop here.</b>

**Step 4.** Is there an exemption that may apply? Check the box below for any applicable exemptions, as described in [CPD Notice 25-01](#) and [2 CFR §184.8](#).

	Project for housing of four units or less
	Expenditures in anticipation of or as a response to a disaster*
	Program income

*\*For information about whether a project might qualify for an exemption from the BAP as a “pre and post disaster or emergency response expenditure,” see 2 CFR § 184.8 and the “Disaster and Emergency Response Expenditures” section on pages 2-3 of the Build America, Buy America Compliance Policy for projects receiving HUD financing.*

If you checked any boxes above, answer **YES**.

Yes	The BAP does not apply to this project. <b>Stop here.</b>
No	Continue to Step 5.

**Step 5.** Based on the obligation date of the covered CPD program funds, does the BAP apply to the funding source and Covered Materials that will be used in the project?

*Use the phased implementation table on the next page to determine whether the BAP applies based on the obligation date for the covered CPD program funds and classification of materials. The BAP may only apply to some Covered Materials used in the project. The obligation date is generally the date that HUD executed the grant agreement for covered CPD program funds to KHC and therefore, this date will be determined by KHC. The obligation date is not the date when KHC commits funds to a project under a subrecipient agreement.*

<b>Covered Program Funds</b>	
<b>Date of Obligation (KHC only)</b>	

BAP will apply to:	Iron and Steel	Specifically Listed Construction Materials	Not Listed Construction Materials	Manufactured Products
<b>CDBG</b>	CDBG funds obligated on or after 11/15/22	Projects using FY24 CDBG funds	Projects using FY25 CDBG funds	Projects using FY25 CDBG funds
<b>RHP</b>	RHP funds obligated on or after 8/23/23	RHP funds obligated on or after 8/23/24	RHP funds obligated on or after 8/23/24	RHP funds obligated on or after 8/23/24
<b>All other CPD programs except HOME and NHTF</b>	Funds obligated on or after 2/22/24	Funds obligated on or after 8/23/24	Funds obligated on or after 8/23/24	Funds obligated on or after 8/23/24
<b>HOME and NHTF</b>	HOME or NHTF funds obligated on or after 8/23/24	HOME or NHTF funds obligated on or after 8/23/24	HOME or NHTF funds obligated on or after 8/23/24	HOME or NHTF funds obligated on or after 8/23/24

Yes	Indicate here which Covered Materials the BAP applies to and continue to Step 6: Iron and steel Specifically listed construction materials Not listed construction materials Manufactured products
No	The BAP does not apply to this project because the funds were obligated before the effective date for the program/materials used in the project. <b>Stop here.</b>

**Step 6.** HUD has issued several general waivers. Check the box next to any conditions that apply to the project.

*Public infrastructure projects that meet the conditions of a general waiver may be exempt in whole or in part from the BAP.*

<input type="checkbox"/>	The total cost of the project from all sources (federal and non-federal) is \$350,000 or less. If checked, the Small Grants Waiver applies, and the project is exempt from the BAP.
<input type="checkbox"/>	There is an urgent need to complete the project because of a threat to life, safety, or property. If checked, the Exigent Circumstances Waiver may apply and the project may be exempt from the BAP.

If you checked any of the boxes above, answer **YES** below.

Yes	The HUD general waiver selected above may be applied to this project, so the BAP may not apply to the entire project. KHC can review a waiver request once all documentation is provided. See BABA Policy.
No	Proceed to Step 6a.

**Step 6a.** Calculate the *De Minimis* limit for the project:

*The total cost of all Covered Materials includes all iron and steel, construction materials, and manufactured products used in the project, regardless of whether the BAP currently applies under the Phased Implementation Waiver.*

Enter the total cost of all Covered Materials:	
Multiply that amount by 0.05 (5%):	
Enter the lower of the number calculated in the row above or \$1,000,000:	

The amount in the third row above is the *De Minimis* limit for this project. The BAP can be waived for Covered Materials from foreign or unknown sources at a cost not to exceed the *De Minimis* limit of 5% of the total cost of materials or \$1,000,000 (whichever is less). The BAP will still apply to other Covered Materials used in the project. **Using Appendix C, attach a list of Covered Materials and their associated costs to which the *De Minimis* limit will be applied.**

**Step 7.** Is there a need for a project-/product-specific waiver?

*If the BAP applies to a project and all general waiver flexibilities have been utilized, but there are remaining Covered Materials that can only be sourced from foreign or unknown sources, then a grantee may apply for a project-/product-specific waiver.*

Yes	Refer to guidance in Section VII, Step 6 of <a href="#">CPD Notice 25-01</a> .
No	<b>Stop here</b> and retain this analysis in project records.

*By signing below, the Recipient acknowledges and accepts this determination of BABA applicability and possible waivers that may be available to the aforementioned project.*

\_\_\_\_\_  
Completed by (*Printed Name*)

\_\_\_\_\_  
Date Completed

\_\_\_\_\_  
Acknowledged by Recipient of FFA (*Signature*)

\_\_\_\_\_  
Date