

The Build America, Buy America Act (BABA), part of the 2021 Infrastructure Investment and Jobs Act, creates an incentive to increase domestic manufacturing through the inclusion of the Buy America Preference (BAP). The BAP requires that all iron, steel, manufactured products and construction materials used in federally funded infrastructure projects, including HUD-funded projects, must be produced in the United States. See [2 CFR § 184.3](#) for detailed definitions and [Minnesota Housing's BABA Fact Sheet](#)

## Materials must be classified into one of these categories

- **Iron and steel products** - Articles, materials, or supplies that consist wholly or predominantly of iron or steel, or a combination of both. Iron and steel content costs must exceed 50% of the total cost of all its components.
- **Manufactured products** - Articles, materials or supplies that have been either: processed into a specific form or shape or combined with other articles, materials, or supplies to create a product with different properties than the individual articles, materials, or supplies. Cost of domestically manufactured components must be greater than 55% of the total cost.
- **Construction materials** - Articles, materials or supplies that consist of only one of these items: Non-ferrous metals, plastic and polymer-based, glass, fiber optic cable, optical fiber, lumber, engineered wood, drywall.

**Concrete and aggregate** materials (Section 70917(c) materials) are not subject to the BAP when they are used or combined at a work site (e.g., wet concrete or hot asphalt mix). However, Section 70917(c) materials can be subject to the BAP if they are processed into a specific shape or form before being delivered to a work site (e.g., precast concrete).

## Five types of waivers are available

- De Minimis – 5% of materials if domestically produced equivalents cannot be identified
- Tribal Recipients – for federally recognized Tribes
- Nonavailability – materials are not available in sufficient quantities or satisfactory quality
- Unreasonable Cost – domestic materials will increase cost by more than 25%
- Public Interest – if applying the BAP would be inconsistent with public interest

## Steps to requests a waiver

Submit waiver to HUD, HUD review, public review and comment, Made in America Office review, Waiver decision finalized