

MAINEHOUSING HUD PROGRAMS BABA CHECKLIST

Applying BAP and HUD Waivers to HUD Programs

Project Name:
Project Location:
Project Number:
Developer:

Step 1: Does BABA Apply?

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

YES NO

If **YES**, proceed to the next question.

If **NO**, BAP does not apply. Sign below and the Checklist is complete.

Signature
Name and Title:

Date

Does the project have four units or **LESS**?

YES NO

If **NO**, proceed to Step 2.

If **YES**, BAP does not apply. Sign below and the Checklist is complete.

Signature
Name and Title:

Date

Step 2: Funding Source

Check the funding sources that apply:

- Continuum of Care (CoC)
- Emergency Solutions Grants (ESG)
- HOME Investment Partnerships Program (HOME)
- Housing Trust Fund (HTF)
- Recovery Housing Program (RHP)
- Community Development Block Grant Formula Programs (CDBG)
- Other Federal Funding Source: _____

If **NONE** of these funding sources apply, BAP does not apply. Sign below and the Checklist is complete.

Signature
Name and Title: _____ Date

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:

If they are not HUD funds, you will need to consult guidance for the source of funds that are the largest to determine how to proceed.

Step 3: Materials

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

- Iron and Steel
- 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. Sign below and the Checklist is complete.

Signature
Name and Title: _____ Date

Step 4: Date of Obligation

Does the project fall under one of the MaineHousing Programs listed below in which the funds are effected by BABA?

YES NO

HUD Program	Effected Funds	MaineHousing Program
Recovery Housing Program	B-24-RH-23-001 (obligated 9/11/24) All future Recovery Housing Funds	2024 Recovery Housing Program – Request for Proposals All future Recovery Housing Programs

Housing Trust Fund (HTF)	F24-SG230100 (obligated 9/4/24) All future HTF Funds	2025 Low-Income Housing Tax Credit Programs (Federal and State) All future Low-Income Housing Tax Credit Programs
HOME Investment Partnerships Program	M24-SG230100 (obligated 8/29/24) All future HOME Funds	2025 Low-Income Housing Tax Credit Programs (Federal and State) All future Low-Income Housing Tax Credit Programs
Lead Hazard Reduction, and Healthy Homes Production Grants	MELHD0502-23 (obligated 7/26/24) All future Lead Hazard Reduction and Healthy Homes Production Grants Funds	MELHD0502-23 Funds require BABA compliance for iron and steel only. The current Lead Hazard Control Programs and Healthy Homes Programs will require BABA compliance for iron and steel only. All current and future Lead Hazard Control Programs and Healthy Homes Programs
Emergency Solutions Grant (ESG)	E-24-DC-23-001 (obligated 9/3/24) All future ESG Funds	No rehabilitation/renovation programs are funded by MaineHousing at this time
Continuum of Care	Anything obligated after 8/23/24	No rehabilitation/renovation programs are funded by MaineHousing at this time
Choice Neighborhood	Anything obligated after 8/23/24	Any new project with Choice Neighborhood funds
All other HUD Programs that include federal financial assistance	Anything obligated after 8/23/24	Any MaineHousing Programs that include other HUD funds not already mentioned above

If **YES** proceed to Step 5.

If **NO**, the BAP does not apply. Sign below and the Checklist is complete.

Signature
Name and Title:

Date

Step 5: General Waivers

Did the Developer apply for/request any of the following waivers?

- Exigent Circumstances Waiver

YES

NO

- *De Minimis* Waiver

YES

NO

- Small Grants Waiver

YES

NO

If you answered **YES**, attach the completed waiver that was approved or denied by MaineHousing.

For the *De Minimis* Waiver ONLY:

Did Developer provide the completed *De Minimis* Waiver Reconciliation Form prior to Permanent Loan Closing?

YES

NO

If **NO**, request from Developer.

If **YES**, is Developer below the 5% threshold?

YES

NO

If **NO**, Developer is not in compliance with BABA and this must be corrected. No Permanent Loan Closing can occur until it is.

Step 6: 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 the Made In America Office ("MIAO").

Did the Developer apply for any of the following waivers?

- Public Interest Waiver

YES

NO

- Nonavailability Waiver

YES

NO

- Unreasonable Cost Waiver

YES

NO

If you answered **YES**, attach the completed waiver that was approved or denied by MaineHousing.

Also attach the waiver approved or denied by HUD/MIAO.

Expiration Date of Waiver: _____

Step 7: Compliance

All backup documentation for the below must be stored in the project files.

1. Did Developer have the contractor/construction manager for the project complete a HUD Contractor/Construction Manager Certification Form (Appendix J) and provide them to MaineHousing?

YES

NO

2. Is the following language included in the project’s plans, specifications and contracts?

_____ (developer name) (“Developer”) must comply with the requirements of the Build America, Buy America Act (BABA), as defined in 2 CFR § 184.3 as division G, title IX, subtitle A, parts I-II, sections 70901 through 70927 of the Infrastructure Investment and Jobs Act (Pub. L. No. 117-58), and all applicable rules and notices, as may be amended. Pursuant to HUD’s Notice, “CPD Implementation Guidance for the Build America, Buy America Act’s Buy America Preference” (CPD-25-01), any funds obligated by HUD on or after the applicable listed effective dates, are subject to BABA requirements, unless excepted by a waiver.

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. Developer is responsible for documenting compliance and ensuring that all contractors and 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

3. Did the Developer complete the Build America, Buy America Construction Material Spreadsheet (Appendix L) or a substantially similar form approved by MaineHousing prior to CLC and include the required certifications?

YES

NO

4. Did MaineHousing complete its risk assessment in accordance with its BABA Risk-Based Monitoring Policy prior to CLC?

YES NO

5. Was the project cleared to move forward with CLC?

YES NO

6. Do the loan documents (Loan Agreement, HOME Agreement, HTF Agreement, RHP Agreement, etc.) include BABA language?

YES NO

7. Did the Developer complete the Payment Request Certification Addendum (Appendix K) **for every requisition** and provide it to MaineHousing?

YES NO

8. Were there any change orders during construction?

YES NO

9. Did the Developer submit all required updates to the Construction Material Spreadsheet (Appendix L) including the required certifications in connection with any change orders or substitutions?

YES NO N/A

10. Did Developer provide a final *De Minimis* Reconciliation Form (Appendix E) or a substantially similar form approved by MaineHousing showing the project's *De Minimis* at or below 5%?

YES NO

11. Did MaineHousing complete its final BABA review prior to PLC?

YES NO

12. Prior to PLC, did Developer execute a Build America, Buy America Self-Certification (Appendix M)?

YES NO

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

Signature
Name and Title:

Date