

Certification of Product(s) Compliance with the Build America, Buy America Act

The undersigned Contractor performing work under Contract No. _____ are hereby made aware that the associated work within this Contract are subject to the Build America, Buy America Act (BABA). The Contractor shall ensure any materials used within this project shall comply with the BABA requirements, which are outlined below and more specifically within 2 CFR 184. Should the Contractor be unable to obtain suitable projects to comply with the BABA requirements, the Contractor shall immediately notify MPHA and provide adequate and suitable due diligence which demonstrates product availability that complies with BABA does not exist. Adequate and suitable shall take the definition of Section I in Public and Indian Housing Notice (PIH) Notice 2024-01. MPHA will not approve any change orders associated with an increase in cost for failure to adequately source and comply with the BABA requirements.

Description of Requirements for BABA Compliance:

Products subject to the BABA fall into one of the following categories: 1) iron or steel products; 2) manufactured products; or 3) construction materials. The domestic content requirements for each of these products is as follows:

- 1) Iron or steel products is defined in 2 CFR 184.3 and means articles, materials, or supplies that consist wholly or predominantly of iron or steel or a combination of both.
 - a) Predominantly of iron or steel or a combination of both is defined in 2 CFR 184.3 and means that the cost of the iron and steel content exceeds 50 percent of the total cost of all its components. The cost of iron and steel is the cost of the iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings utilized in the manufacture of the product and a good faith estimate of the cost of iron or steel components.
 - b) Iron or Steel products must be Produced in the United States. Produced in the United States is defined in 2 CFR 184.3 and means in the case of iron or steel products, all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
- 2) Manufactured Products is defined in 2 CFR 184.3 and means:
 - a) Articles, materials, or supplies that have been:
 - i) Processed into a specific form and shape; or
 - ii) Combined with other articles, materials, or supplies to create a product with different properties than the individual articles, materials, or supplies.
 - b) If an item is classified as an iron or steel product, a construction material, or a section 70917(c) material under 2 CFR 184.4(e) and the definitions set forth in this section, then it is not a manufactured product. However, an article, material, or supply classified as a manufactured product under 2 CFR 184.4(e) and paragraph a) of this definition may include components that are construction materials, iron or steel products, or section 70917(c) materials.
 - c) Manufactured Products must be Produced in the United States. Produced in the United States is defined in 2 CFR 184.3 and means in the case of manufactured products:
 - i) The product was manufactured in the United States; and
 - ii) The cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard that meets or exceeds this standard has been established under applicable law or regulation for determining

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the minimum amount of domestic content of the manufactured product. See 2 CFR 184.2(a). The costs of components of a manufactured product are determined according to 2 CFR 184.5.

- 3) Construction Materials is defined in 2 CFR 184.3 and means articles, materials, or supplies that consist of only one of the items listed in paragraph a) of this definition, except as provided in paragraph b) of this definition. To the extent one of the items listed in paragraph a) contains as inputs other items listed in paragraph a), it is nonetheless a construction material.
- a) The listed items are:
 - i) Non-ferrous metals;
 - ii) Plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables);
 - iii) Glass (including optic glass);
 - iv) Fiber optic cable (including drop cable);
 - v) Optical fiber;
 - vi) Lumber;
 - vii) Engineered wood; and
 - viii) Drywall.
 - b) Minor additions of articles, materials, supplies, or binding agents to a construction material do not change the categorization of the construction material.
 - c) Construction Materials must be Produced in the United States. Produced in the United States is defined in 2 CFR 184.3 and means: In the case of construction materials, all manufacturing processes for the construction material occurred in the United States. See 2 CFR 184.6 for more information on the meaning of “all manufacturing processes” for specific construction materials.

Note that Section 70917(c) materials is defined in 2 CFR 184.3 and means cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives. See BABA, Section 70917(c). Section 70917(c) materials are not subject to BABA and therefore no certification form is required for them.

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I hereby certify that I have reasonably researched whether the above referenced product complies with BABA and have a sound basis for concluding that the above referenced product is compliant with BABA. I also certify that to the best of my knowledge and belief all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate.

Name of the person certifying: _____

Title of person certifying: _____

Company/Entity the person certifying represents: _____

Phone number of the person certifying: _____

Email address of the person certifying: _____