

Process for Build America Buy America (BABA) Waivers

Within 120-Day Progress Phase

- **Initial Submission**

The Developer shall submit the following to NH Housing for review:

- Completed De Minimis General Waiver Form (Appendix A);
- Completed HUD BABA Construction Materials Spreadsheet (Appendix F); and
- A certification letter from the project architect or engineer confirming the accuracy of the Construction Materials Spreadsheet.

All supporting documentation shall be made available to NH Housing upon request.

- **Non-Availability Project-Specific Waiver (Risk Mitigation):**

To mitigate the risk that the cost of non-compliant materials may exceed the 5% De Minimis threshold during construction, the Developer shall submit a completed Non-Availability Project-Specific Waiver Form (Appendix C) for the highest-cost non-compliant product identified in the Construction Materials Spreadsheet.

- NH Housing will review the submission and, upon determining it is complete, will submit the waiver request to HUD. Based on current information, HUD approval is estimated to take approximately seven (7) months.
- The contractor shall not purchase the product identified in the waiver request until HUD approval is received.
- Upon approval, the waiver will reduce the value of non-compliant materials counted toward the 5% De Minimis threshold, providing a safeguard against unforeseen cost increases.

During Construction

- **Ongoing Compliance:**

If there is any change in the original HUD BABA Construction Materials Spreadsheet, the Developer shall submit with the next requisition, after the change occurred, an updated Construction Materials Spreadsheet to ensure that the 5% De Minimis threshold is not exceeded.

- If additional non-compliant materials must be added, the architect shall verify that their inclusion does not cause the total cost of non-compliant materials to exceed the 5% De Minimis threshold.

- **Project Closeout:**

Upon completion of construction, the Developer shall submit the BABA Compliance Self-Certification Form (Appendix H).