

Build America, Buy America Applicant Acknowledgment and Certification

To be completed and returned to NCHFA as part of the final application for Low-Income Housing Tax Credits and request for a Rental Production Program loan

This applies to the Applicant as defined in the applicable NCHFA Qualified Allocation Plan, of a multi-family rental project which receives a North Carolina Housing Finance Agency (the “Agency” or “NCHFA”) loan funded with Federal Financial Assistance. Applicable HUD funding sources for Agency loans are listed below:

- HOME Investment Partnership (HOME)
- National Housing Trust Fund (NHTF)

Awareness and Applicability:

The undersigned, Applicant on behalf of a multi-family rental project, understands that if awarded a federally-funded loan subject to the Infrastructure Investment and Jobs Act (Pub. L. 117-59) and its implementing regulations (2 CFR 184 and related guidance), the project is subject to Build America, Buy America Act (“BABA”), 41 USC 8301 et seq., and all applicable regulations, rules and notices, as may be amended.

Commitment to BABA Compliance:

Since construction has not started, the undersigned commits to sourcing all iron, steel, manufactured products, and construction materials for the project in compliance with BABA standards, unless an available HUD-issued waiver applies. For covered materials not otherwise exempted from the BABA requirements, the undersigned certifies the following:

1. All iron and steel used in the project will be produced in the United States. This means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States;
2. All manufactured products used in the project will be produced in the United States. This means the manufactured product was manufactured in the United States, and 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 the minimum amount of domestic content of the manufactured product; and
3. All construction materials used in the project will be manufactured in the United States. This means that all manufacturing processes for the construction material occurred in the United States.
4. Upon award, manufacturer certifications, invoices, and origin documentation affirming compliance with BABA requirements will be collected and maintained. Such documentation may be audited or requested to be produced by the Agency, HUD, or other federal authorities.
5. The preliminary list of iron and steel, manufactured products and construction materials submitted as part of the final application is a complete list of items that will be used in the construction of the project and is BABA compliant, unless otherwise noted.

Disclosure Regarding Waiver-Pending Restrictions:

In the event a required material or manufactured product cannot be sourced in a manner that meets BABA guidelines, a Product Specific Waiver Request shall be submitted to the Agency for review and transmittal to HUD. If a Product Specific Waiver Request is submitted to HUD or another applicable federal agency seeking an exemption from the BABA domestic content requirements, neither the Owner nor the General Contractor shall purchase, procure, install, or otherwise use the specified product(s) in the Project—or permit their use by any subcontractor—until HUD (or the applicable federal agency) issues a formal decision approving the waiver. In the event HUD denies the waiver, whether explicitly or by lapse of the administrative review period, the Owner and General Contractor must, at their own cost, remove and replace any non-compliant material or product manufactured or installed prior to the denial, provide complete documentation of the replacement, and ensure full compliance before proceeding further with the Project.

Acknowledgement of Remediation for Non-Compliance:

In the event it is determined, by the Owner, General Contractor, the Agency, HUD or any other federal authority, that any iron, steel, manufactured products, or construction materials incorporated into the Project do not meet the Build America, Buy America (BABA) domestic content requirements, the Owner and the General Contractor shall, at their sole expense and to the extent practicable, promptly:

1. Remove and replace the non-compliant material with compliant material;
2. Submit all supporting documentation and justification showing why compliant materials were unavailable (including procurement records, manufacturer certifications, and prior market research);
3. Abide by any corrective measures, approval processes, or financial remedies as required by HUD or the federal funding agency, which may include withholding of payment, re-procurement, or other enforcement actions pursuant to 2 CFR Part 184 and applicable HUD policy.

Until such materials are replaced and compliance is demonstrated to HUD's satisfaction, the Owner and General Contractor shall not be entitled to any contractual payment for non-compliant materials or related work, and any non-compliant installation may be subject to removal, remediation, or audit.

Enforcement and Flow-Down Requirements:

1. The following certification shall be incorporated into the development contract between the owner and developer. Additionally, the developer shall also include in all contracts and subcontracts for the provision of iron, steel, manufactured products and construction materials the following:

The undersigned acknowledges that the Project is subject to the Build America, Buy America Act ("BABA"), enacted as part of the Infrastructure Investment and Jobs Act (IIJA), Pub. L. 117-58, and Contractor agrees to comply with BABA. Pursuant to BABA, the undersigned is required to apply a domestic content procurement preference (the "Buy America preference" or "BAP") for all iron, steel, manufactured products, and

construction materials incorporated into the Project.

All iron, steel, manufactured products and construction materials incorporated into the Project must be produced in the United States, including such materials installed by any subcontractors or suppliers. Definitions of iron, steel, manufactured products, and construction materials can be found in 2 C.F.R. Part 184 and are incorporated herein by this reference. Additional information regarding BABA requirements and compliance may be found at https://www.hud.gov/program_offices/general_counsel/build_america_buy_america and is incorporated herein by this reference.

2. The following certification shall be incorporated into the construction contract between the owner and general contractor. Additionally, the general contractor shall also include in all contracts and subcontracts for the provision of iron, steel, manufactured products and construction materials the following:

Contractor acknowledges that the Project is subject to the Build America, Buy America Act (“BABA”), enacted as part of the Infrastructure Investment and Jobs Act (IIJA), Pub. L. 117-58, and Contractor agrees to comply with BABA. Pursuant to BABA, Contractor is required to apply a domestic content procurement preference (the “Buy America preference” or “BAP”) for all iron, steel, manufactured products, and construction materials incorporated into the Project.

All iron, steel, manufactured products and construction materials incorporated into the Project must be produced in the United States, including such materials installed by any subcontractors or suppliers. Definitions of iron, steel, manufactured products, and construction materials can be found in 2 C.F.R. Part 184 and are incorporated herein by this reference. Additional information regarding BABA requirements and compliance may be found at https://www.hud.gov/program_offices/general_counsel/build_america_buy_america and is incorporated herein by this reference.

We the undersigned, have read and fully agree to this Build America, Buy America Compliance Certification, and become party to the full implementation of this program.

Applicant:

Signature: _____

Title: _____

Date: _____