

The Bureau of Reclamation wants to make sure that Title XVI project sponsors have the most current information related to the cognizant agency approach for Build America, Buy America (BABA) Waivers and its application to Reclamation financial assistance agreements. Please see below updated BABA FAQs that we will add to the Title XVI website.

Thanks for your continued collaboration as we continue to navigate BABA requirements and waiver processes. If you have any questions, please contact Maribeth Menendez at mmenendez@usbr.gov.

Q: Is Build America, Buy America (BABA) required for my project?

A: Yes. The Water Recycling and Desalination programs provides Federal funding for infrastructure projects, and Buy America preferences apply to Federal Financial Assistance awards for infrastructure projects in the United States. Reference [2 CFR Part 184 - Buy America Preferences for Infrastructure Project](#) for further guidance.

Q: If my project is also funded through an EPA WIFIA agreement, can the EPA WIFIA BABA waiver be applied to my Reclamation grant?

A: No, Reclamation cannot use the cognizant agency approach to apply another Federal agency's BABA waiver to Reclamation financial assistance agreements.

In 2023, based on OMB guidance (OMB-M-22-11), an affirmative determination was agreed to by DOI and EPA that the EPA WIFIA waiver could be applied to Reclamation projects in cases where EPA is the agency that provides the preponderance of funds for the project and is therefore the cognizant agency for the project. Recipients also must have met all eligibility criteria of the approved WIFIA Waiver and had an executed WIFIA agreement with EPA for the same project.

Later on May 17, 2024, based on the updated OMB guidance (OMB M-24-02) and [other relevant BABA laws and policies](#), it was determined that we can no longer use the cognizant agency approach for BABA waivers. Reclamation has most recently determined, based on the guidance implemented under 2 CFR Part 184 and M-24-02, that any financial assistance agreement funding an infrastructure project, either amendment or new, awarded after May 17, 2024, will need to be BABA compliant or need an approved BABA waiver. Previous decisions will remain unmodified, and if Reclamation previously authorized an award to use the EPA WIFIA waiver and has documentation in the award file, that decision is unchanged.

Q: Which BABA waivers might apply for my project?

A: Reclamation received approval for a [General Applicability Public Interest Waiver for WaterSMART Programs Impacted by Drought](#), which allowed for some conditional and time-limited purchase of non-domestic products used in water infrastructure projects funded under WaterSMART programs. There is still partial coverage under this waiver for projects that meet the criteria as a Previously Planned Project until February 14, 2026. For other awards or amendments, this waiver expired on February 14, 2025.

The Department of the Interior also has an established [General Applicability Waiver for De Minimis Purchases](#) to waive the Buy America Preference for otherwise covered infrastructure project purchases totaling up to 5% of the total Buy America applicable project costs, up to a maximum of \$1 million. This waiver is set to expire on February 20, 2028.

Recipients may consider pursuing a project-specific waiver in accordance with 2 CFR Part 184, using the [BABA Waiver Template](#), and submitting a draft waiver request to the recipient's assigned Grants Officer. We suggest focusing the scope of the waiver request to the specific articles, materials, and supplies that cannot be sourced domestically to meet the BABA requirement and providing detailed market research information as supporting information. Recipients are encouraged to contact their assigned Grants Officer, Grants Officer Technical Representative, and the Title XVI Program Coordinator, Maribeth Menendez (mmenendez@usbr.gov), to discuss preliminary information about a potential waiver request. The Program and Grants Officer will review information such as the justification and market research support and coordinate further discussions about the waiver request before formal submission. A list of project specific waivers that have been approved to date can be found here: <https://www.doi.gov/grants/BuyAmerica/ApprovedWaivers>