



BUILD AMERICA, BUY AMERICA POLICIES AND PROCEDURES



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Introduction

What is Build America, Buy America (BABA)?

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. This requirement is known as the “Buy America Preference (BAP)” and the specific requirements are codified in 2 CFR Part 184.

Purpose of this Document

This plan outlines how the City of Dayton and its subrecipients, contractors, and subcontractors will comply with Office of Community Planning & Development’s (CPD) BABA requirements in the City of Dayton’s CPD funded programs. The City of Dayton will, to the greatest extent feasible, ensure that iron and steel, construction materials, and manufactured products utilized in CPD projects will be made in America.

The City of Dayton may amend its Build America, Buy America Policies and Procedures document as necessary to ensure continued compliance with CPD’s requirements and/or to reflect updated BABA guidance and regulations.

Applicability

BABA applies to CPD’s recipients of “Federal Financial Assistance” (FFA), meaning grants, cooperative agreements, direct assistance, loan guarantees, and other financial assistance, which were obligated by HUD after the relevant implementation date for BABA. BABA requires that all iron, steel, and manufactured products, and construction materials used in an “infrastructure project” with any FFA must be produced in the United States, unless the awarding Federal Agency has issued an applicable waiver. The domestic content procurement is known as the “Buy America Preference” (BAP).

For the purposes of the BAP, an infrastructure project is defined as any project that includes construction, alteration, maintenance, or repair of infrastructure regardless of whether infrastructure is the primary purpose of the project. For CPD programs, this may include, but is not limited to, certain funding for:

- Road and sidewalk improvement projects;
- Water, sewer, and other utility projects;
- Broadband infrastructure;
- Housing construction and rehabilitation;
- Community facility construction and rehabilitation;
- Homeless shelter construction and rehabilitation;
- And other CPD-funded activities that are defined as infrastructure according to BABA (section 70912(5)).

To facilitate a smooth transition for the application of BAP requirements, HUD established a Phased Implementation Waiver for its program based on the date when funds are obligated (i.e., typically the date when HUD executes the grant agreement). The BAP will apply on or after HUD obligates new funds for the following:

- **CDBG Formula Grants:**

- Iron and Steel—November 15, 2022
- Specifically Listed Construction Materials—FY24 appropriations
- Not Listed Construction Materials and Manufactured Products—FY25 appropriations
- **Recovery Housing Program (RHP) Grants:**
 - Iron and Steel—August 23, 2023
 - Specifically Listed Construction Materials—FY24 appropriations
 - Not Listed Construction Materials and Manufactured Products—FY25 appropriations
- **All CPD programs, except HOME and Housing Trust Fund:**
 - Iron and Steel—February 22, 2024
 - Specifically Listed Construction Materials, Manufactured Products, and Not Listed Construction Materials—August 23, 2024
- **All CPD Programs, including HOME and HTF**
 - Iron and Steel, Specifically Listed Construction Materials, Manufactured Products, and Not Listed Construction Materials—August 23, 2024.

Build America, Buy America requirements apply to an entire project, regardless of whether the project is fully or partially assisted, as well as projects receiving funding from multiple sources.

BABA Coordinator

The City of Dayton’s BABA Coordinator serves as the central point of contact for BABA compliance for the City of Dayton and its subrecipients, contractors, and subcontractors supporting the program. Subrecipients, contractors, subcontractors and others are encouraged to reach out to the City of Dayton’s BABA Coordinator with questions regarding BABA compliance:

Jordan Bereda

Community Development Specialist 1

Jordan.Bereda@daytonohio.gov

Products Covered

Iron and Steel

Items that consist completely or predominantly of iron, steel, or a combination of both.

“Predominantly” means the cost of the iron and steel content exceeds 50% of the total cost of all the item’s components.

All manufacturing processes, starting from the initial melting stage and continuing through the application of coatings, must occur in the United States.

Construction Materials

Articles, materials, or supplies used for construction activities that consist of only one of the items described below. Construction materials are divided into two categories: specifically listed construction materials and not listed construction materials.

- **Specifically Listed Construction Materials:**
 - Non-ferrous metals
 - Lumber
 - Plastic- and polymer-based composite building materials, pipe, and tube.
- **Not Listed Construction Materials:**
 - All other plastic- and polymer-based materials (such as polymers used in fiber optic cables)
 - Glass
 - Fiber optic cable
 - Optical fiber
 - Engineered wood
 - Drywall

All manufacturing processes for the construction material must occur in the United States.

Manufactured Products

Manufactured products include articles, materials, or supplies that have either been:

1. Processed into a specific form or shape, or
2. Combined with other articles, materials, or supplies to create a product with different properties than the individual articles, materials, or supplies.

A manufactured product may include components that are construction materials or iron and steel products, unless the manufactured product also meets the definition of iron and steel or construction materials. In such instances, the product should be recategorized in the appropriate category.

Manufactured products must meet two production requirements. First, the final product must be manufactured in the United States. Second, at least 55% of the cost of the components making up the manufactured product must be associated with components that were mined, produced, or manufactured in the United States.

Materials and Activities not covered by the Buy America Preference

1. Temporary products and materials that are removed at or before project completion, such as temporary scaffolding, equipment, or tools.
2. Equipment and furnishings such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project but are not an integral part of or permanently affixed to the structure.
3. Technical assistance and management costs.
4. Design and planning costs, project scoping, or advance assistance. However, domestic preferences must be considered in planning to ensure compliance for construction projects e.g., design-build contracts.
5. Acquisition and demolition projects where there are no articles, materials, or supplies that are incorporated into an infrastructure project.
6. Projects funded with pre and post disaster or emergency response funds.

HUD General Waivers

In addition to the Phased Implementation Waiver, HUD has approved three Department-wide public interest general waivers for BAP applicability. If all the conditions for a general waiver are met, the BAP requirements may be waived for that project, or a portion of the materials used in a project.

These waivers can be employed without the need for a formal request to HUD and should maintain records to substantiate the waiver's application to a project. If the BABA Coordinator determines that a general waiver applies to a project, they will write a memo documenting the determination that will be included in the project file.

Exigent Circumstances

For projects that must be completed immediately to protect life, ensure safety, or prevent the destruction of property. This waiver is effective through November 23, 2027.

De Minimis and Small Grants

For projects whose total cost (from all sources) does not exceed the simplified acquisition threshold value (\$250,000), OR if BAP materials for a portion of a project comprise no more than 5% of the total cost of covered materials used in a project (not to exceed \$1 million), the BAP can be waived for that portion of the project. This waiver is effective through November 23, 2027.

Tribal Recipients

The BAP does not for HUD funds to Tribes, Tribally Designated Housing Entities, and other Tribal Entities covered by this public interest general waiver. This waiver is effective through May 23, 2024.

Pacific Island/Territory Recipients

HUD accepted public comment on a proposed general waiver for Pacific Island/Territory recipients through September 1, 2023. HUD will consider the public comments received and base its decision for adoption of the BAP in Pacific Island/Territory Communities in a future general waiver published in the Federal Register.

Project/Product-Specific Waivers

Project/product-specific waivers are available on a limited, case-by-case basis, after HUD's review, a public comment period, and final approval from the Office of Management and Budget's Made in America Office (MIAO). Federal agencies could use the following principles before issuing a waiver of any type:

- **Time-limited:** In certain limited circumstances, a Federal agency may determine that a waiver should be constrained principally by a length of time, or phased-out over time, rather than by the specific projects to which it applies. When issuing such a waiver, the agency could identify an appropriate, definite time frame (e.g., no more than one to two years) designed to ensure that, as domestic supply becomes available, domestic producers will have prompt access to the market created by the program.
- **Targeted:** Waivers that are not limited to particular projects should apply only to the item(s), products(s), or material(s) or category(ies) of item(s), product(s), or material(s) necessary.

Waivers that are overly broad will tend to undermine domestic preference policies. Broader waivers will receive greater scrutiny from the MIAO.

- **Conditional:** Federal agencies are encouraged to issue waivers with specific conditions that support the policies of BABA.

If more than one Federal agency is funding the infrastructure project, project-specific waivers will require coordination among those Federal agencies prior to a determination by the MIAO.

Waiver requirements include:

- Waivers must be posted for at least 15 days for public comment.
- Consult with Made in America Office (MIAO) prior to posting a waiver with broader applicability (e.g., program-level waiver) to ensure it covers no more than necessary.
- Submit waivers to MIAO for review after public comment to determine if it is consistent with policy.

Public Interest Waiver

For projects where adhering to the BAP would be inconsistent with the public interest. This type of waiver may have a variety of bases. As with other waivers, they will be project-specific whenever possible, as what is in the public interest may vary depending upon the circumstances of the project, recipient, and specific items, products, or materials in question.

Nonavailability Waiver

For projects where covered materials are not produced in the USA in sufficient and reasonably available quantities or of a satisfactory quality. Before a non-availability waiver is granted, agencies will consider whether the recipient has performed thorough market research, which can be accomplished with assistance from the agency, and adequately considered, where appropriate, qualifying alternate items, products, or materials. Waivers should describe the market research activities and methods to identify domestically manufactured items capable of satisfying the requirement, including the timing of the research and conclusions reached on the availability of the sources.

Unreasonable Cost Waiver

For projects where the inclusion of domestically produced covered materials will increase the cost of the overall project by more than 25%. Before an unreasonable cost waiver is granted, agencies will ensure the recipient has provided adequate documentation that no domestic alternatives are available within this cost parameter. For requests citing unreasonable cost as the statutory basis of the waiver, the waiver justification must include a comparison of the overall cost of the project with domestic products to the overall cost of the project with foreign-origin products, pursuant to the requirements of the applicable Made in America law. Publicly available cost comparison data may be provided in lieu of proprietary pricing information. Unreasonable cost waivers should be no broader than necessary.

BABA Contracting Policy and Procedure

The City of Dayton will incorporate BABA language in all agreements generated for use with CPD funding where BABA may or may not apply.

In addition to contract language discussing BABA requirements, all those bidding on BABA applicable projects will be required to fill out a BABA Bid Certification form showing their intent to comply with the Buy America Preference requirements.

BABA Provisions/Contract Language

The City of Dayton will include standard BABA language in all contracts to ensure compliance with regulations in 2 CFR Part 184. The City of Dayton will take appropriate actions upon finding that a contractor is in violation of 2 CFR Part 184 and does not knowingly contract with any contractor that has been found in violation of the Build America, Buy America regulations. On a periodic basis the BABA Coordinator will audit the City of Dayton's contractors for compliance with BABA requirements.

In addition, contractors and subrecipients are required to include language in all BABA covered contracts and agreements for subcontractors to meet the requirements of 2 CFR Part 184.

For businesses, noncompliance with CPD's regulations in 2 CFR Part 184 may result in sanctions, termination of contract for default, and debarment or suspension from future CPD assisted contracts. If the contract is a multi-year contract the City or HUD holds the right to terminate the contract after the first year due to non-compliance. If the contract is for one year, noncompliance will be documented and has the potential to hinder future contract opportunities.

Contract Language

The following is the Contract Language for all Contractors, Subrecipients, and Developers working on projects where BABA applies:

1. "Build America, Buy America (BABA)" Clause

- a. Compliance

Compliance with the requirements of the Build America, Buy America (BABA) Act, 41 USC 8301 note, and all applicable rules and notices, as may be amended, and as implemented by the regulations set forth in 2 CFR Part 184, shall be a condition of the federal financial assistance provided under this contract and binding upon the City, [Contractor, Subrecipient, Developer] and any of the [Contractor, Subrecipient, Developer]'s subrecipients, contractors, and subcontractors, their successors and assigns, to those sanctions specified by the Agreement through which federal assistance is provided. [Contractor, Subrecipient, Developer] certifies and agrees that no contractual or other disability exists that would prevent compliance with these requirements. Pursuant to HUD's Notice, "Public Interest Phased Implementation Waiver for FY 2022 and 2023 of Build America, Buy America Provisions as Applied to Recipients of HUD Federal Financial Assistance" (88 FR 17001), any funds obligated by HUD on or after the applicable listed effective dates, are subject to BABA requirements, unless excepted by a waiver.

[Contractor, Subrecipient, Developer] agrees to comply with the "Build America, Buy America (BABA) Act" requirements set forth above, and shall include the following language in all subcontracts executed for the program:

"The work to be performed under this contract is subject to the requirements of the Build America, Buy America Act included in the Infrastructure Investment and Jobs Act of 2021, as amended, Pub. L. 117-58 at division G, title IX, subtitle

A, part I, sections 70911 through 70917 and the regulations established in 2 CFR Part 184. The purpose of Build America, Buy America is to ensure that all iron, steel, manufactured products, and construction materials used for federally funded infrastructure projects are produced within the United States, unless otherwise exempt or subject to an approved waiver.”

The parties to this contract agree to comply with HUD’s regulations in 2 CFR Part 184, implementing Buy America Preferences. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 184 regulations.

The [Contractor, Subrecipient, Developer] shall require itself and all subrecipients, contractors, and subcontractors to abide by the following regulations at 2 CFR Part 184:

Applicability of Buy America Preference to infrastructure projects. Infrastructure encompasses public infrastructure projects in the United States, which includes, at a minimum, the structures, facilities and equipment for roads, highways, and bridges; public transportation; dams, ports, harbors, and other maritime facilities; intercity passenger and freight railroads; freight and intermodal facilities; airports; water systems, including drinking water and wastewater systems; electrical transmission facilities and systems; utilities; broadband infrastructure; and buildings and real property; and structures, facilities, and equipment that generate, transport, and distribute energy including electric vehicle (EV) charging.

An article, material, or supply should only be classified into one of these categories, (i) iron or steel products, (ii) manufactured products, (iii) construction materials, or (iv) Section 70917(c) materials. An article, material, or supply may not fall under any of the categories listed in paragraph (e)(1) of this section. The classification of an article, material, or supply as falling into one of the categories listed in paragraph (e)(1) must be made based on its status as at the time it is brought to the work site for incorporation into an infrastructure project. In general, the work site is the location of the infrastructure project at which the iron, steel, manufactured products, and construction materials will be incorporated.

In determining whether the cost of components for manufactured products is greater than 55 percent of the total cost of all components, use the following instructions: (a) For components purchased by the manufacturer, the acquisition cost, including transportation costs to the place of incorporation into the manufactured product (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued). Or (b) For components manufactured by the manufacturer, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (a) of this section, plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the manufactured product.

b. Definitions

Buy America Preference means the “domestic content procurement preference” set forth in section 70914 of the Build America, Buy America Act, which requires the head of each Federal agency to ensure that none of the funds made available for a Federal award for an infrastructure project may be obligated unless all of the iron, steel, manufactured products, and construction materials incorporated into the project are produced in the United States. It does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project. The Buy America Preference does not apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project, but are not an integral part of the structure or permanently affixed to the infrastructure project.

Construction materials means articles, materials, or supplies that consist of only one of the items listed in paragraph (1) of this definition, except as provided in paragraph (2) of this definition. To the extent one of the items listed in paragraph (1) contains as inputs other items listed in paragraph (1), it is nonetheless a construction material.

(1) The listed items are:

- i. *Non-ferrous metals*. All manufacturing processes, from initial smelting or melting through final shaping, coating, and assembly, occurred in the United States.
- ii. *Plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables)*. All manufacturing processes, from initial combination of constituent plastic or polymer-based inputs, or, where applicable, constituent composite materials, until the item is in its final form, occurred in the United States.
- iii. *Glass (including optic glass)*. All manufacturing process, from initial batching and melting of raw materials through annealing, cooling, and cutting, occurred in the United States.
- jjj. *Fiber optic cable (including drop cable)*. All manufacturing processes, from the initial ribboning (if applicable), through buffering, fiber stranding and jacketing, occurred in the United States. All manufacturing processes also include the standards for glass and optical fiber, but not for non-ferrous metals, plastic and polymer-based products, or any others.

(2) Minor additions of articles, materials, supplies, or binding agents to a construction material do not change the categorization of the construction material.

c. Subcontracts

The [Contractor, Subrecipient, Developer] agrees to include this Build America, Buy America clause in every subcontract, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Build America, Buy America clause, upon a finding that the subcontractor is in violation of the regulations in 2 CFR Part 184, and will not allow any subcontract unless the entity has first provided it with a

preliminary statement of ability to comply with the requirements of these regulations. The [Contractor, Subrecipient, Developer] will not subcontract with any subcontractor where the [Contractor, Subrecipient, Developer] has notice or knowledge that the subcontractor has been found in violation of the regulations in 2 CFR Part 184.

d. Waivers

When necessary, recipients may apply for, and the agency may grant, a waiver from these requirements. The agency should notify the recipient for information on the process for requesting a waiver from these requirements.

When the Federal agency has made a determination that one of the following exemptions applies, the awarding official may waive the application of the Buy America Preference in any case in which the agency determines that: (1) applying the Buy America Preference would be consistent with the public interest; (2) the types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality; or (3) the inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent.

A request to waive the application of the Buy America Preference must be in writing. The agency will provide instructions on the format, contents, and supporting materials required for any waiver request. Waiver requests are subject to public comment periods of no less than 15 days and must be reviewed by the Made in America Office.

e. Phased Timing of Buy America Preference

Buy America Preference (BAP) will apply to all CPD Programs by 2025. To help facilitate a smooth transition to the requirements, HUD established a Phased Implementation Waiver for its programs based on the date when funds are obligated.

For CDBG Infrastructure projects:

- (1) Using funding obligated on or after November 15, 2022, BAP only applies to iron and steel.
- (2) Using FY2024 appropriations, BAP applies to iron, steel, and specifically listed construction materials.
- (3) Using FY2025 appropriations, BAP applies to iron, steel, specifically listed construction materials, not listed construction materials, and manufactured products.

For all CPD infrastructure projects, excluding HOME and HTF:

- (1) Using funding obligated on or after February 22, 2024, BAP only applies to iron and steel.
- (2) Using funding obligated on or after August 23, 2023, BAP applies to iron, steel, specifically listed construction materials, not listed construction materials, and manufactured products.

For all CPD infrastructure projects, including HOME and HTF:

- (1) Using funding obligated on or after August 23, 2024, BAP applies to iron, steel, specifically listed construction materials, not listed construction materials, and manufactured products.

Reporting Requirements

For BABA covered contracts, contractors must submit documentation proving items, products, or materials covered under BABA were in fact made in America. BABA projects will be reported in IDIS.

Compliance Monitoring and Reviews

The BABA Coordinator will conduct regular compliance reviews, which consist of comprehensive analysis and evaluation of recipient's or contractor's compliance with BABA. Since the source of these funds is from the Office of Community Planning and Development (CPD), federal officials maintain the right and responsibility to conduct BABA compliance reviews, which may involve any and all BABA projects funded by the City.

Where noncompliance is found with contractors or sub-recipient's subcontractors, notification will be sent to the contractor or sub-recipient who will be responsible for ensuring compliance from their subcontractor. **A finding of noncompliance by the City, CPD, or HUD may result in termination of contract or loss of future contracting opportunities.**

Addressing Non-Compliance

If the contract is a multi-year contract the City, CPD, or HUD holds the right to terminate the contract after the first year due to non-compliance. If the contract is for one year, noncompliance will be documented and has the potential to hinder future contract opportunities.

Recordkeeping

Documentation should be retained that demonstrates:

1. All the iron, steel, manufactured products, and construction materials used in infrastructure projects are produced in the United States in accordance with HUD's Phased Implementation Waiver, or
2. The project is covered by a HUD general waiver and is therefore exempt from the BAP, or
3. A project/product-specific waiver was reviewed by HUD and approved by the MIAO.

Appendix A: Definitions

The terms *HUD*, *Public housing*, and *Public Housing Agency (PHA)* are defined in 24 CFR Part 5.

The following definitions also apply to 24 CFR Part 75 HUD's Economic Opportunities for Low- and Very Low-Income Persons:

- **1937 Act**- the United States Housing Act of 1937, 42 U.S.C. 1437 *et seq.* *activities related to Public Housing.*
- **Contractor**- means any entity entering into a contract with:
 - A recipient to perform work in connection with the expenditure of public housing financial assistance or for work in connection with a Section 3 project; or
 - A subrecipient for work in connection with a Section 3 project.
- **Labor Hours**- the number of paid hours worked by persons on a Section 3 project or by persons employed with funds that include public housing financial assistance.
- **Low-income person**- a person as defined in Section 3(b)(2) of the 1937 Act, at or below 80% AMI. Note that Section 3 worker eligibility uses individual income rather than family/household income.
- **Material supply contracts**- contracts for the purchase of products and materials, including, but not limited to, lumber, drywall, wiring, concrete, pipes, toilets, sinks, carpets, and office supplies.
- **Professional services**- non-construction services that require an advanced degree or professional licensing, including, but not limited to, contracts for legal services, financial consulting, accounting services, environmental assessment, architectural services, and civil engineering services.
- **Public housing financial assistance**-
 - Development assistance provided pursuant to Section 5 of the United States Housing Act of 1937 (the 1937 Act);
 - Operations and management assistance provided pursuant to section 9(e) of the 1937 Act;
 - Development, modernization, and management assistance provided pursuant to section 9(d) of the 1937 Act; and
 - The entirety of a mixed-finance development project as described in 24 CFR 905.604, regardless of whether the project is fully or partially assisted with public housing financial assistance as defined above.
- **Public housing project**- The term "public housing" means low-income housing, and all necessary appurtenances thereto, assisted under the 1937 Act, other than assistance under 42 U.S.C. 1437f of the 1937 Act (section 8). The term "public housing" includes dwelling units in a mixed-finance project that are assisted by a public housing agency with public housing capital assistance or Operating Fund assistance. When used in reference to public housing, the term "project" means housing developed, acquired, or assisted by a PHA under the 1937 Act, and the improvement of any such housing.
- **Recipient**- any entity that receives directly from HUD public housing financial assistance or housing and community development assistance that funds Section 3 projects, including, but

not limited to, any State, local government, instrumentality, PHA, or other public agency, public or private nonprofit organization.

- **Section 3-** means Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u)
- **Section 3 Business Concern-**
 - A business concern meeting at least one of the following criteria, documented within the last six-month period:
 - It is at least 51 percent owned and controlled by low-or very low-income persons;
 - Over 75 percent of the labor hours performed for the business over the prior three-month period are performed by Section 3 workers; or
 - It is a business at least 51 percent owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing.
 - The status of a Section 3 business concern shall not be negatively affected by a prior arrest or conviction of its owner(s) or employees.
 - Nothing in this part shall be construed to require the contracting or subcontracting of a Section 3 business concern. Section 3 business concerns are not exempt from meeting the specifications of the contract.
- **Section 3 Coordinator-** person tasked with overseeing all Section 3 responsibilities for the PHA/CD office.
- **Section 3 Project-** housing rehabilitation, housing construction, and other public construction projects assisted under HUD programs that provide housing and community development financial assistance when the total amount of assistance to the project exceeds a threshold of \$200,000. The threshold is \$100,000 where the assistance is from the Lead Hazard Control and Healthy Homes programs, as authorized by Section 501 or 502 of the Housing and Urban Development Act of 1970; and the Residential Lead-Based Paint Hazard Reduction Act of 1992. The project is the site or sites together with any building(s) and improvements located on the site(s) that are under common ownership, management, and financing.
- **Section 3 Worker-**
 - Any worker who currently fits or when hired within the past five years fit at least one of the following categories, as documented:
 - The worker's income for the previous or annualized calendar year is below the income limit established by HUD.
 - The worker is employed by a Section 3 business concern.
 - The worker is a YouthBuild participant.
 - The status of a Section 3 worker shall not be negatively affected by a prior arrest or conviction.
 - Nothing in this part shall be construed to require the employment of someone who meets this definition of a Section 3 worker. Section 3 workers are not exempt from meeting the qualifications of the position to be filled.
- **Section 8-assisted housing-** housing receiving project-based rental assistance or tenant-based assistance under Section 8 of the 1937 Act.
- **Service area or the neighborhood of the project-** an area within one mile of the Section 3 project or, if fewer than 5,000 people live within one mile of a Section 3 project, within a circle

centered on the Section 3 project that is sufficient to encompass a population of 5,000 people according to the most recent U.S. Census.

- **Small PHA**- a public housing authority that manages or operates fewer than 250 public housing units.
- **Subcontractor**- any entity that has a contract with a contractor to undertake a portion of the contractor's obligation to perform work in connection with the expenditure of public housing financial assistance or for a Section 3 project.
- **Subrecipient**- a non-Federal entity that receives a subaward from a pass-through entity to carry out part of a Federal program; but does not include an individual that is a beneficiary of such program. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency.
- **Targeted Section 3 worker**-
 - A worker employed by a Section 3 Business Concern; or
 - A worker who currently fits, or when hired fit, at least one of the following categories, as documented within the past five years:
 - Living within one mile of the service area or the neighborhood of the project;
 - If fewer than 5,000 people live within one mile of a Section 3 project, within a circle centered on the Section 3 project that is sufficient to encompass a population of 5,000 people according to the most recent U.S. Census.
 - A YouthBuild participant.
- **Very low-income person**- the definition of this term set forth in section 3(b)(2) of the 1937 Act (at or below 50% AMI).
- **YouthBuild programs**- YouthBuild programs receiving assistance under the Workforce Innovation and Opportunity Act (29 U.S.C. 3226).

Appendix B: Sample BABA Project Certification Form

Section 3 Worker and Targeted Section 3 Worker Certification Form

The Section 3 Worker Certification is used to determine an individual's Section 3 status. It should be completed by:

1. Residents seeking status as a Section 3 Worker or Targeted Section 3 Worker;
2. Workers (or contractors on behalf of workers) working on City of Dayton projects to determine Section 3 status;
3. Workers employed by a business seeking Section 3 Business certification.

For a list of registered workers and businesses in the Dayton area please email the Section 3 Coordinator at Jordan.Bereda@daytonohio.gov.

This form is not required as a condition of employment and may be completed by the worker or employer.

INSTRUCTIONS

Enter/select the appropriate information to confirm Section 3 Worker or Targeted Section 3 Worker status. Please submit this document to Jordan Bereda via email at Jordan.Bereda@daytonohio.gov.

Section 3 Worker/Targeted Section 3 Worker Certification Form

Name						
Address						
City		County		State		Zip Code
Telephone Number		Email				

Contractor Name			
Section 3 Business	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
Worker's Hire Date			

ANNUAL INCOME

I certify that I make (or when hired within the past five years made) less than \$49,850.

WORKER/RESIDENT STATUS

Select which statement applies to you and list dates as needed.

- Current or former YouthBuild participant If former, what month and year were you last a participant? _____
- Are you a current resident of the City of Dayton?
- Are you living within one mile of the service area or the neighborhood of the project?

SECTION 3 WORKER STATUS

Are you certifying as a Section 3 Worker or a Targeted Section 3 Worker?

- Section 3 Worker Targeted Section 3 Worker

This form was completed by the: Worker Employer

I affirm and hereby certify, under penalty of the law, that the information completed within this document is true and accurate to the best of my knowledge and belief.

Name	
Signature	
Date	