



NATIONAL GUARD BUREAU

111 SOUTH GEORGE MASON DRIVE
ARLINGTON VA 22204-1382

APR 4 2024

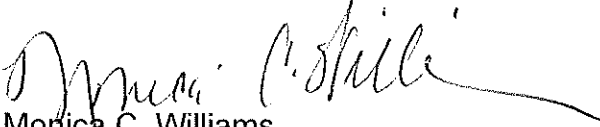
MEMORANDUM FOR SEE DISTRIBUTION

Subject: Grants and Cooperative Agreements Policy Letter, 24-02, Build America, Buy America Waiver Process FY24 Updates

References: See Enclosure C.

1. This Grants and Cooperative Agreements Policy Letter (GCAPL) 24-02 rescinds reference a and establishes the updated Build America, Buy America (BABA) waiver process for NGB grants and cooperative agreements.
2. Reference b provides guidance to Federal awarding agencies on the implementation of the Buy America Preference applicable to Federal financial assistance set forth in reference c included in reference d.
3. The head of each Federal agency must 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 (See reference e). The Office of the Deputy Assistant Secretary of the Army (Procurement) (DASA(P)) is the designated Federal agency approval authority for the National Guard Bureau.
4. In accordance with reference f, agencies may waive the Buy America domestic content procurement preference requirements if the agency finds that any one of the following apply:
 - a. Applying the domestic content procurement preference would be inconsistent with the public interest (Public Interest/General Applicability Waiver).
 - b. 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 (Non-Availability Waiver).
 - c. 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 (Unreasonable Cost Waiver).
5. Non-Availability and Unreasonable Cost waiver requests must follow the processes outlined in Enclosures A and B unless the Grants Officer determines they meet the criteria for any approved DASA(P) General Applicability Public Interest Waivers found on reference g.

6. NGB-AQ will post waiver request on the hyperlink in reference g for a minimum of 15 days.
7. Public comments are reviewed and adjudicated by NGB-AQ and the MIAO.
8. NGB-AQ, through DASA(P), submits final waiver determination to the MIAO for final review pursuant to reference h and reference i.
9. Once DASA(P) approves and signs waiver, NGB will issue approved waiver to the Grants Officer to issue to the Recipient.
10. The Grants Officer will monitor and provide oversight to ensure Recipient compliance with the waiver. Approved waivers are an auditable item and must be part of the official cooperative agreement file. BABA compliance is an auditable element of the terms and conditions of the National Guard Cooperative Agreement program.
11. All waivers are effective on the date approved by DASA(P). The Recipient will outline the desired term in the waiver request. Waivers cannot exceed 5 years in duration. Retroactive waivers will not be considered.
12. The forms required in this GCAPL and resources to assist in the creation of individual project waivers can be found on the hyperlink at reference j.
13. Point of contact is Darcy Ostrander-Damon; Division Chief, NGB-AQ-A; email darcy.a.ostrander-damon.civ@army.mil.


Morica C. Williams
Executive Director of Acquisitions &
Head of Contracting Activity

Enclosures:

- A -- Individual Project Waiver Requests
- B -- USPFO Letterhead
- C -- References

cc:

- NGB-CT
- USPFO each state/territory/district
- GOR each state/territory/district
- NGB-OPR-PM each program
- NGB-IR
- Recipient each state/territory/district

ENCLOSURE A

INDIVIDUAL PROJECT WAIVER REQUESTS

1. The Waiver request must be made by the Recipient on Recipient's letterhead. The *Made In America Office* (MIAO) also requires submission of the "Quick Steers" form (found in para 7 link of this document). Information on the request memorandum and the Quick Steers form should be identical. The memorandum will be the publicly posted document. The Quick Steers form will be used by the MIAO.
2. The Recipient must conduct market research that is well documented prior to submission to the Grants Officer for concurrence. It must be documented separately from the waiver. The Grants Officer will verify that market research is sufficient. See Reference j for market research assistance.
3. The USPFO will concur using Federal USPFO letterhead as prescribed by NGB (Enclosure B). This will ensure that the MIAO can clearly understand that the United State Property and Fiscal Office is a federal entity and not a state entity.
4. All documents must be unsigned MS Word documents as requested by the MIAO. This allows the MIAO to make tracked changes for review and adjudication by NGB, the Grants Officer, or the Recipient as needed.
5. NGB-AQ and the CA Award NGB-OPR-PM for the cooperative agreement award will review all submitted documentation, adjudicate, and submit to DASA(P).
6. Market research documentation will be retained by NGB-AQ and submitted only when requested by the MIAO.
7. ODASA(P) will review and submit to the MIAO for review.
8. The MIAO will review and work with NGB-AQ on revisions. Once the MIAO is satisfied with the waiver request language, they will approve posting for public comment on the NGB-AQ website (reference g). Forms will be returned to the Grants Officer to be converted to PDF and signed by all parties prior to posting.
9. Public comments are reviewed and adjudicated by NGB-AQ and the MIAO.
10. NGB-AQ, through DASA(P), submits final waiver determination to the MIAO for final review pursuant to reference h and reference i.
11. Once DASA(P) approves and signs waiver, NGB will issue approved waiver to the Grants Officer to issue to the Recipient.

ENCLOSURE B

USPFO LETTERHEAD

1. The Grants Officer will concur using Federal USPFO letterhead as prescribed by NGB and depicted in Figure 1. This will ensure that the MIAO can clearly understand that the United States Property and Fiscal Office is a federal entity and not a state entity.

2. All lines will be in all caps. Font sizes are depicted below.

a. First Line of letterhead should show "NATIONAL GUARD BUREAU" all caps in 12pt. Arial.

b. Second line of letterhead should show "United States Property and Fiscal Office for (State)" all caps 8pt Arial Bold.

c. Third line should show street address, State and Zip Code in all caps 8pt Arial Bold.

d. The DoD Seal will be used to indicate the authority of the office of the USPFO.

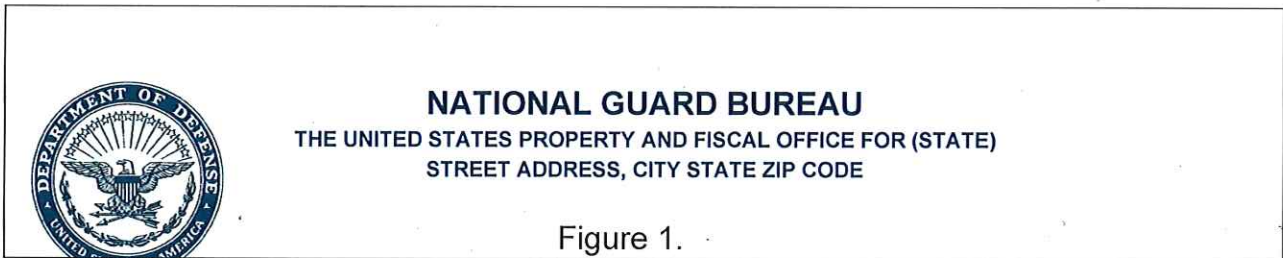


Figure 1.

ENCLOSURE C

REFERENCES

- a. Grants and Cooperative Agreement Policy Letter 23-02, 2 December 2022 "Build America Buy America Waiver Process"
- b. Title 2 Code of Federal Regulations, "Grants and Agreements", Subtitle A, Chapter 1, Part 184 "Buy America Preferences for Infrastructure Projects"
- c. Title 2 Code of Federal Regulations, "Grants and Agreements", Subtitle A, Chapter 1, Part 184 "Buy America Preferences for Infrastructure Projects" part I of subtitle A, "Purpose and Policy"
- d. PUBLIC LAW 117–58 at Division G, Title IX, Subtitle A, Part I, Sections 70911 through 70917 "Infrastructure Investment and Jobs Act"
- e. PUBLIC LAW 117–58 at Division G, Title IX, Subtitle A, Part I, Section 70914(a) "Infrastructure Investment and Jobs Act"
- f. PUBLIC LAW 117–58 at Division G, Title IX, Subtitle A, Part I, Section 70914 (b) "Infrastructure Investment and Jobs Act"
- g. Joint Staff, Special Staff, Director of Acquisitions, Build America, Buy America Act Public Website <https://www.nationalguard.mil/Leadership/Joint-Staff/Special-Staff/Director-of-Acquisitions/Build-America-Buy-America-Act/> (NIPRNET – accessed: 15 March 2024)
- h. Executive Order 14005 "Ensuring the Future Is Made in All of America by All of America's Workers"
- i. PUBLIC LAW 117–58 at Division G, Title IX, Subtitle A, Part I, Section 70923(b) "Infrastructure Investment and Jobs Act"
- j. Joint Director of Staff Primary Site, Grants/Cooperative Agreements, Build America, Buy America SharePoint (GKN) <https://armyeitaas.sharepoint-mil.us/sites/NGBJ-DCNGB-AQ-A/Cooperative%20Agreements/Forms/AllItems.aspx?id=%2Fsites%2FNGBJ%2DDCNGB%2DAQ%2DA%2FCooperative%20Agreements%2FBuild%20America%2C%20Buy%20America&viewid=fc3db9e0%2D407f%2D49c4%2D8c3e%2D814164f1f284> (NIPERNET – accessed: 15 March 2024)
- k. Office of Acquisition Management, Build America, Buy America Website [Build America Buy America | U.S. Department of Commerce](#) (NIPRNET – accessed: 15 March 2024)