

Guidance on Submission of an NSF Waiver Request

This document is designed to assist recipients of U.S. National Science Foundation awards by providing important information related to the submission of an NSF Build America, Buy America waiver request provided in provisions of the *Infrastructure Investment and Jobs Act* (IIJA; P.L. 117-58).

WAIVER REQUESTS

A request to waive the application of the domestic content procurement preference must be provided in writing to NSF by emailing BABAwaiver@nsf.gov. Waiver requests are subject to a public comment period of no less than 15 days on the [NSF Waiver Requests webpage](#). Waiver requests are further reviewed by the Office of Management and Budget, *Made in America Office*.

Waiver requests may be submitted at either the award or subaward level. The prime award recipient must submit any subaward waiver requests to NSF. Each waiver request must include the following information:

1. **Waiver Type** — Nonavailability, unreasonable cost, or public interest
2. **Non-Federal Entity Name** — Recipient organization name
3. **Unique Entity Identifier**
4. **Financial Assistance Listing Name and Number**
5. **Federal Financial Assistance Program Name**
6. **Federal Award Identification Number** — NSF award number
7. **Federal Financial Assistance Funding Amount**
8. **Assigned Program Officer Name and Email Address**
9. **Assigned Grants and Agreements Officer Name and Email Address**
10. **Total Cost of Infrastructure Expenditures** — Include all Federal and non-Federal funds (to the extent known)
11. **Project Location**
12. **Project Description** — Provide a brief description of the grant or cooperative agreement for which this waiver request is being submitted. Limit your response to 2,000 characters.
13. **Waiver Items** — List of iron or steel items, manufactured products, and construction materials proposed to be excepted from Buy America requirements. For each item, include the name, cost and countries of origin (if known), and relevant *Product Service Codes* and *North American Industry Classification System code*. Limit your response to 2,000 characters for each item.

14. **Waiver Justification Summary** — Provide a summary of the mission importance of the waiver, including why immediate action is necessary, and a description of efforts you have made in your attempt to avoid the need for a waiver. This justification should provide evidence of due diligence to avoid the waiver, such as:
- A. Market research to find available goods, and if applicable, consideration of similar goods or alternative solutions;
 - B. Cost comparisons between the domestic and foreign options, market research to demonstrate that other domestic options were considered domestic option if other choices are available and appropriate);
 - C. A description of options considered to avoid a public interest waiver; and
 - D. The market research needs to show details of the efforts made to find a domestic source: when was the market research conducted (dates posted and closed or date search performed); where was it conducted (posting site, include notice (sources sought) number and/or website); how was it conducted (search used NAICS, a term, or other); who performed the market research; and what were the results (what was the response, including the country where the product will be procured from). (For sample market research language, please see the *Frequently asked questions about the Act* document).

Limit your response to 2,000 characters.

15. **Anticipated impact if no waiver is issued:** Limit your response to 2,000 characters.

* In addition, you must provide a statement certifying that you made a good faith effort to solicit bids for domestic products.

Waiver Policy for Projects Funded by Multiple Federal Agencies

If you receive funding from multiple Federal agencies for a single project (such as when a municipality combines awards from multiple agencies to build a single facility), you must submit your waiver request to the Federal awarding agency that contributes the greatest amount of Federal funds for the project; this agency is considered the “cognizant agency for Made in America” and will take the responsibility for coordinating with the other Federal awarding agencies. As such, if NSF provides the largest share of funding on a shared project with other Federal funding, NSF will be the cognizant agency for Build America, Buy America.

SUBMISSION OF NSF WAIVER REQUEST

1. Your waiver request must be signed by an Authorized Organizational Representative and submitted in writing to BABAwaiver@nsf.gov prior to the purchase, acquisition or negotiated procurement of products or materials. You will receive an automatic email response letting you know that your waiver request was received. If you do not receive the confirmation email, NSF has neither received nor approved your waiver request.
2. NSF will review your proposed waiver request, post it on the NSF website for public comments, and then submit it to the Made In America Office, which will review the proposed waiver and will notify NSF of its determination.

3. NSF will notify you of disapproval or approval of your waiver request in writing once a final determination is made.
4. You are required to track the costs associated with the purchase of any construction materials and report these costs in your requisite annual and final project reports.

EXCEPTIONS

In limited situations where there is an urgent need in an unforeseen and exigent circumstance, NSF has the authority to waive the application of Buy America preferences without submitting the waiver for public comment and determination by the Made in America Office. As an exception to the public transparency requirements of the Act, NSF will exercise this authority only when deemed necessary.

DATA ELEMENTS USED IN AN NSF WAIVER REQUEST

You must provide the required information to NSF for each waiver request. Some of the required data are needed for the review by cognizant NSF Program Officer and Grants and Agreements Officer, and NSF's Senior Accountable Official, and will not be made public. Currently, NSF does not have an automated system for collecting waiver requests. All waiver requests must be submitted by email to BABAWaiver@nsf.gov and contain the written justification and all required data listed above.