



Build America, Buy America (BABA) Implementation Procedures for the Texas Community Development Block Grant Program (TxCDBG)

Overview

The following checklist, instructions, definitions, and frequently asked questions (FAQs) are for projects funded by the Texas Department of Agriculture with funds allocated by the U.S. Department of Housing and Urban Development (HUD) through the Community Development Block Grant Program. The information provided in this document is based on the Build America, Buy America Act (BABA), Office of Management and Budget (OMB) guidance, and HUD guidance, among other resources.

This document will be added to or updated as necessary, including if subsequent guidance is proposed and finalized by HUD or OMB. This document is designed to assist Grant Recipients with navigating BABA requirements as they apply to the TxCDBG Program. Grant Recipients are encouraged to reach out to their Grant Specialist or TDA's BABA Subject Matter Expert with general questions not covered in this document or any project-specific questions.

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Section 1: BABA Activities Checklist

ACTIVITY	Consultant	Engineer/ Architect	Contractor
A. Pre-Award			
While preparing the bid packet, identify bid items that will, or are likely to include BABA Applicable Materials.			
Include BABA Requirements when advertising for bids to ensure responsible bid responses. Best Practice: include the <i>Certification of Bidder Regarding BABA Requirements for TxCDBG Projects</i> (on page 12) in the bid packet			
B. Post-Award			
At the Pre-Construction meeting, finalize list of <i>all materials</i> to be used for the project based on the bid awarded and provide to the Grant Administrator.			
Enter list of <i>all permanently installed materials</i> to be used for the project into the BABA Reporting page under the Group B Performance Report in TDA-GO.			
As materials are ordered, request a Manufacturer's Certification for all BABA-applicable materials for which a waiver is not being claimed and upload them to the correct material row on the BABA Reporting page.			
Review and update the BABA Reporting page throughout the life of the grant with each submitted Change Order or Construction MSR.			
C. Payment Requests			
Review BABA Reporting page prior to submitting each payment request and ensure the necessary Manufacturer's Certifications are uploaded. TDA will not release funds for materials that require BABA certification unless the certification is uploaded to the BABA Reporting page.			
D. Project Completion			
On the BABA Reporting Page, select "Print Document" in the left navigation menu. Have the Authorized Official initial and upload to the Project Completion Report (and Grant Overview page if applicable).			

Section 2: BABA Instructions

Documenting Materials for BABA Compliance:

The purpose of the BABA Reporting page in TDA-GO is to document **ALL permanently installed materials** being used in a project to ensure BABA compliance. **ALL permanently installed materials**, including materials that are not BABA Applicable, must be listed on this page so TDA can ensure all compliance requirements are met and provide appropriate technical assistance to help prevent potential findings.

The BABA Reporting page requires each material to be listed along with each corresponding bid item #. However, this is a list of **materials**, not a list of bid items.

- Some materials (such as Rebar) may be used for multiple bid items. For ease of reporting, a material should be listed in one row with all associated Bid Item #(s) noted rather than listing the same material multiple times if it is used for multiple bid items.
- Some bid items (such as Curb & Gutter) may use multiple different materials (Cement Aggregate & Rebar). Each material should be listed separately (to the extent feasible).

When submitting Group B Performance Report, the Material Cost may not yet be known. At this point, TDA will primarily be reviewing the BABA Reporting page for the Material Description, Related Bid Item #(s), and Waiver Status. If the material listed is not BABA Applicable or if a waiver will be claimed, please indicate that using the dropdown menu under Waiver Status.

Any change to the materials being used (such as on a Change Order to add new bid items or change the quantity of existing materials, or when awarding a second Construction Contract), please answer “Yes” to the BABA question on the Change Order page in TDA-GO and update the BABA Reporting page.

Payment Request Procedures:

Each time a Payment Request is submitted for Construction funds, the BABA Reporting page must be reviewed for accuracy and updated as necessary.

Before Construction funds are requested for a specific bid item, the BABA Compliance Certification for each associated material must be uploaded to the BABA Reporting page in the field for those materials. TDA will review the certifications and, if acceptable, check the “Reviewed by TDA” box. For materials that are “Not BABA Applicable” or if a waiver is applied, leave that row’s upload field blank. As a note: TDA **will not** release funds for a bid item until each of the associated materials have all required certifications uploaded to the BABA Reporting page. Prior to uploading a BABA Compliance Certification, the Contractor and Grant Administrator should cross-reference each certification with TDA’s [BABA Certification Checklist](#) to ensure it meets the requirements for acceptance.

Project Completion:

After the final payment request for 100% of construction funds is submitted, navigate to the BABA Reporting page in TDA-GO. In the left navigation menu, scroll to the Tools section and select “Print Document”. Select “Include with Attachments” for the BABA Reporting page only. Have the Authorized Official initial the document and upload it to the Project Completion Report in the appropriate field. If a grant includes the BABA Special Condition on the Grant Overview page, upload the same document to that field and notify the assigned TDA Grant Specialist via email.

Waiver Status Option Meanings:

<i>OPTION</i>	Meaning
Certification Required	This material is BABA Applicable and a Manufacturer’s Certification or other acceptable BABA documentation will be provided.
De Minimis Waiver Claimed	This material is BABA Applicable, but the cost is less than 5% of the cumulative cost of all BABA Applicable materials. No BABA documentation will be provided. *
Phased Implementation Waiver Claimed	This material is BABA Applicable, but BABA documentation is not required to be provided under the current Implementation Phase. No BABA documentation will be provided.
Not BABA Applicable	This material is Not BABA Applicable and not subject to any BABA documentation requirements. No BABA documentation will be provided.
Other Waiver Submitted for Review	This material is BABA Applicable, but the Grant Recipient will be submitting a waiver request to exempt it from BABA reporting requirements.

**HUD has waived the application of the Buy America Preference for a De Minimis portion of an infrastructure project, (a cumulative total of no more than 5% of the total cost of the iron, steel, manufactured products, and construction materials used in and incorporated into the project, up to a maximum of \$1 million). Grant Recipients are not required to submit BABA documentation for materials claimed as part of the De Minimis. Use the BABA Compliance Metrics section of the BABA Reporting page to determine if a material may be included in the De Minimis. The total % of all materials claimed as part of the De Minimis must be less than or equal to 5%. Only BABA Applicable materials are used to calculate the De Minimis.*

Section 3: BABA Definitions

Materials vs Components:

Materials: The term “Materials” is used by TDA to describe all iron and steel products, section 70917(c) materials, construction materials, and manufactured products that are permanently installed within a TxCDBG-funded infrastructure project.

Components: The term “Component” is defined in the Code of Federal Regulations as an “article, material, or supply, whether manufactured or unmanufactured, incorporated directly into: a manufactured product; or, where applicable, an iron or steel product.”

Iron and Steel Products:

The term “iron and steel products” is defined in 2 CFR 184.3 as materials that consists wholly or predominantly of iron or steel, or a combination of both.

Predominantly iron or steel or a combination of both means that the cost of the iron and steel content is more than 50 percent of the total cost of all its components. The cost of iron and steel is the cost of the mill products (such as bar, slab, wire, plate, or sheet), castings, or forgings utilized in the manufacture of the product. *This information should be provided by the manufacturer.*

For an iron and steel product to be BABA compliant, all manufacturing processes, from the initial melting stage through the final application of coatings, must occur in the United States. Specifically, the iron and steel must be melted and poured in the United States and all subsequent manufacturing processes (such as grinding, rolling, bending, reheating, casting, and coating) must also occur in the United States.

Section 70917(c) Materials:

The term “section 70917(c) materials” is defined in 2 CFR 184.3 as cement and cementitious materials; aggregates such as stone, sand, or gravel, or aggregate binding agents or additives.

Section 70917(c) materials do not have to be produced in the United States. However, these materials must be listed on the BABA Reporting page in TDA-GO as “Not BABA Applicable”.

Construction Materials:

The term “construction materials” is defined in 2 CFR 184.3 as materials that consist of only one of the items listed below. Construction Materials are broken into two separate categories based on the Phased Implementation Waiver.

- **Specifically Listed Construction Materials** include:
 - Non-ferrous metals;
 - Lumber;
 - Composite building materials; and
 - Plastic and polymer-based pipe and tube.
- **Not Listed Construction Materials** include:
 - Plastic and polymer-based products other than composite building materials or plastic and polymer-based pipe or tube;
 - glass (including optic glass); and
 - drywall.

As a note: minor additions of articles, materials, supplies or binding agents to a construction material do not change the categorization of the construction material.

For a construction material to be BABA compliant, it must meet the specific standards listed in the table below for the material to be considered “produced in the United States”.

<i>Construction Material</i>	“Produced in the U.S.” means all manufacturing processes occurred in the U.S.
Non-ferrous metals	From initial smelting or melting through final shaping, coating, and assembly
Lumber	From initial debarking through treatment and planing
Plastic and polymer-based products	From initial combination of constituent plastic or polymer-based inputs, or, where applicable, constituent composite materials, until the item is in its final form
Glass	From initial batching and melting of raw materials through annealing, cooling, and cutting
Fiber optic cable (including drop cable)	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
Optical fiber	From the initial preform fabrication stage through the completion of the draw
Drywall	From initial blending of mined or synthetic gypsum plaster and additives through cutting and drying of sandwiched panels
Engineered Wood	From the initial combination of constituent materials until the wood product is in its final form

Manufactured Products:

The term “manufactured products” is defined in 2 CFR 184.3 as materials that have been:

- Processed into a specific form and shape; or
- Combined with other materials to create a product with different properties than the individual materials.

As a note: If an item is classified as an iron or steel product, a construction material, or a section 70917(c) material, then it is not a manufactured product. However, a material classified as a manufactured product may include components that are construction materials, iron or steel products, or section 70917(c) materials.

For a manufactured product to be BABA compliant, the product must be 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 must be greater than 55 percent of the total cost of all components of the manufactured product.

Section 4: BABA FAQs

If a material complies with the Buy American Act, does it also comply with BABA?

The Buy American Act, and other domestic preference requirements, often differ from BABA requirements. Manufacturers and Grant Recipients should ensure the material complies with BABA requirements as outlined in 2 CFR Part 184.

How should materials be classified for BABA reporting purposes?

Materials should only be classified into one of the following categories to determine when BABA requirements apply:

- BABA Applicable Materials:
 - Iron or steel products;
 - Construction materials; or
 - Manufactured products.
- Not BABA Applicable Materials:
 - Section 70917(c) materials.

Each material should be classified in *only one* of the categories listed above. In rare cases, a material may not fall under any of the categories listed here (contact TDA's BABA Subject Matter Expert for guidance). Use the [TxCDBG BABA Material Classification Tool](#) to assist with classifying materials.

HUD has provided clarification regarding *when* materials should be categorized. **The classification of a material must be made based on its status at the time it is brought to the work site.** Section 70917(c) materials that are used at the work site, such as wet concrete or hot asphalt, are not subject to BABA requirements. However, Section 70917(c) materials may be components of manufactured products if, for example, they are used to produce precast concrete products before being transported to the work site. In this case, the concrete is a *component* of a manufactured product and BABA requirements apply.

What documents will TDA accept as proof of BABA compliance?

TDA will accept the following as proof of BABA compliance.

- A copy of the product description or technical specifications provided by the manufacturer that:
 - Identifies the item purchased, and
 - Provides sufficient detail to conclude that the materials comply with BABA.
- A certificate, letter, or other documentation provided by the manufacturer that:
 - Identifies the item purchased,
 - Provides sufficient detail to conclude that the materials comply with BABA, and
 - Signed by an authorized company representative OR issued by a verified regulatory compliance office within the company.
- A signed certification from the contractor of a project certifying compliance with BABA.
 - *If a contractor is certifying BABA compliance, please use [TDA's Form A402](#).*

TDA's optional [Manufacturer's BABA Compliance Certification Form A403](#) meets the requirements outlined above. For other certifications provided by the manufacturer, use TDA's [BABA Certification Checklist](#) to ensure all requirements are met. **TDA reserves the right to request additional documentation at any time.**

Will TDA accept a fillable certification letter for materials?

No. While manufacturers may use forms to internally develop letters within their company, a fillable certification letter that can be changed by someone besides the manufacturer after signature does not demonstrate compliance. Only signed non-manipulable certification letters will be accepted by TDA.

What happened to the A400 BABA Compliance Form?

TDA no longer accepts the A400 BABA Compliance Form. That form was discontinued for all new grants in August 2025 and fully phased out for *all* grants in January 2026. The BABA Reporting page in TDA-GO replaced the A400. Appendix 2 of this document (the Project Material List) should be used by the Contractor and Engineer to provide a list of materials to the Grant Administrator for upload to the BABA Reporting page.

Why would TDA and manufacturers classify certain materials under different categories?

When BABA was signed into law in November 2021, it contained a “savings provision” in Section 70917(b) which states that BABA does not affect existing domestic content procurement preferences for infrastructure projects funded by federal assistance programs that meet the requirements of Section 70914. This provision was intended to allow the continued use of older, agency-specific requirements (such as the longstanding American Iron and Steel provisions specific to the EPA and DOT) without disruption by the new domestic content procurement preferences established by BABA. However, agencies without a pre-existing domestic procurement preference (such as HUD) must implement BABA requirements as written in 2 CFR Part 184.

Due to discrepancies between AIS provisions and BABA requirements, some materials would be classified differently depending on which agency the federal financial assistance originated from. For example:

- **HUD-Funded Projects:** Classification of a pump would depend on its total component cost. It would be classified as either a predominantly iron or steel product or a manufactured product based on the percentage of its iron and steel content (see Section 3: BABA Definitions).
- **EPA-Funded Projects:** A pump is always classified as a manufactured product. The EPA categorizes pumps as “mechanical and electrical equipment” under AIS, exempting them from domestic iron and steel requirements.

Iron and steel products and manufactured products have different requirements to be considered BABA compliant. As a result, it is the Grant Recipient's responsibility to communicate with manufacturers that all materials incorporated in the project must comply with HUD's BABA requirements even if they differ from existing industry standards established under prior AIS requirements.

What happens if I don't comply with BABA requirements?

Grant Recipients are responsible for ensuring all permanently installed materials are compliant with BABA requirements. If a Grant Recipient fails to comply with BABA requirements, TDA will take appropriate action depending on the severity of the situation; up to and including: finding of non-compliance and corrective action plan, disallowed costs, administrative penalties, required BABA trainings for administrator and/or local officials, administrator sanction, and/or grant termination and return of previously disbursed funds.

TDA may adjust these options at any time based on additional guidance from HUD or OMB.

Are there any resources available to help locate BABA-compliant products?

Yes, the National Institute of Standards and Technology (NIST) Manufacturing Extension Partnership (MEP) provides a supplier scouting service (linked [HERE](#)) that Grant Recipients and Contractors may use to conduct market research and identify manufacturers who can meet demand for American-made products.

Are there any waivers available?

There are two waivers currently in effect for HUD programs which are applicable to TxCDBG projects and one waiver which may be requested. These waivers include:

- **Phased Implementation Waiver**
 - HUD has established a Phased Implementation Waiver which automatically applies to all CDBG Formula Grants. This waiver allows TxCDBG Grant Recipients to delay BABA reporting on categories of materials based on the schedule below:
 - **Iron and Steel Products** – BABA reporting required for all grants.
 - **Specifically Listed Construction Materials** – BABA reporting required for all grants awarded after 9/1/2024.
 - **Not Listed Construction Materials** – BABA reporting required for all grants awarded after 9/1/2025.
 - **Manufactured Products** – BABA reporting required for all grants awarded after 9/1/2025.
 - The [TxCDBG BABA Material Classification Tool](#) includes these reporting dates.

- **De Minimis Waiver**
 - HUD has established a De Minimis Waiver which automatically applies to all HUD-administered infrastructure projects. TxCDBG Grant Recipients may apply this waiver to a maximum cumulative total of 5% of the total cost of BABA Applicable materials used in the project. *Only BABA Applicable materials are used to calculate the De Minimis.*
 - The total cost of BABA Applicable materials can be determined by adding the following together:
 - Total cost of all Iron and Steel Products
 - Total cost of all Construction Materials (Both Specifically Listed and Not Listed)
 - Total cost of all Manufactured Products
 - Once the above amounts are combined, multiply by 0.05 to determine the maximum De Minimis amount that may be claimed. The total % of all materials claimed as part of the De Minimis must be less than or equal to 5%.
 - The BABA Compliance Metrics section on the BABA Reporting Page in TDA-GO calculates this automatically.
 - TxCDBG Grant Recipients are not required to submit BABA documentation for materials claimed as part of the De Minimis.
- **Project-/Product-Specific Waiver**
 - If a Grant Recipient has applied both above waivers to their project and still wishes to not provide BABA reporting for additional materials, one of the three Project-/Product-Specific Waivers may be requested by following the process outlined in Appendix # below.
 - Types of Project-/Product-Specific Waivers:
 - **Nonavailability Waiver:**
 - May be requested if the types of iron, steel, manufactured products, or construction materials required for the project are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality.
 - **Unreasonable Cost Waiver:**
 - May be requested when 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.
 - **Public Interest Waiver:**
 - May be requested if the use of American made products would be inconsistent with the public interest. Grantees should explain how waiving the BABA requirement for the project or product will serve the public interest and demonstrate definite impacts on the community if specific materials are not utilized in an infrastructure project to support this waiver type.

As a Note:

- As of January 2025, TDA has not seen any waiver applications approved for projects similar to TxCDBG funded projects. Submitting a waiver application does not guarantee approval.
- Any project delays due to the waiver process will not be considered for proposed Grant Agreement extensions.
- **Per HUD and OMB, project-/product-specific waivers will not be approved retroactively for materials that have already been purchased or incorporated into a project.**

Appendix 1: Waiver Request Process

Step-by-Step Waiver Process:

1. Complete the BABA Reporting page in TDA-GO to calculate the De Minimis limit and ensure flexibility is fully applied to the materials used in the project that cannot be procured from domestic manufacturers.
2. Determine the type of waiver to be requested.
3. Complete the necessary market research to support the need for a waiver. (See next section.)
4. Collect the required information to submit the waiver request to TDA. (See next section.)
5. Submit to your TDA Grant Specialist a notarized letter addressed to the TxCDBG Director which includes all the required information as specified in the next section.
6. TDA will review the information provided, contact the Grant Recipient if additional information is needed, and submit to HUD if deemed appropriate.
7. HUD will review the waiver application and contact TDA if additional information is needed to validate the need for a waiver.
8. If an application is approved by HUD, the proposed waiver will be posted in the Federal Register for a minimum 15-day public comment period and then submit the request to the Made In America Office (MIAO) at the Office of Management and Budget (OMB).
9. The MIAO will review the proposed waiver and public comments for final approval and communicate a final decision to HUD which will communicate it to TDA who will then notify the Grant Recipient.

Required Information to Submit a Waiver Request:

Per HUD's requirements, the following information is required to submit a waiver application. Please ensure all this information is included in your letter to the TxCDBG Director. If all of the required information is not included, TDA will reject the waiver request.

- Market research supporting the need for a waiver;
 - Market research may be completed by the contractor who is purchasing the materials to be incorporated into the project.
 - Sufficient market research should include one or more of the following:
 - Document the report showing results of supplier scouting services provided by the [NIST MEP](#), or similar supplier scouting service.
 - Document that the purchaser has made a good faith effort to contact a minimum of three (3) manufacturers or suppliers to determine if a BABA-compliant material is available in sufficient quantity and satisfactory quality. This documentation should include the following:
 - PDF files or screenshots of Internet searches; and
 - Email communications; and
 - Documentation of phone conversations that notes the date and time of the call, the phone number, the contact person with whom the purchaser spoke, and a summary of the information received.
- Detailed description of the project and location;
- List of all Federal Agencies funding the project;
 - If any Federal Agencies besides HUD are co-funding the project, please include the Federal Agency's name, Office, Program, and Contact Information.
- Total sources and amounts of funding, including federal and non-federal shares;
- Total estimated project costs, including federal and non-federal shares;
- A listing of the material, technical specification, and quantity;

- HUD requires the name of the iron or steel item, manufactured product, or construction material proposed to be excepted from BABA requirements, including name, cost, countries of origin, relevant [Product Service Code \(PSC\)](#), and [North American Industry Classification System \(NAICS\) code](#).
- **As a note:** if there are multiple products you would like HUD to review, a waiver application must be submitted for each product.
- Waiver type requested;
 - **Nonavailability Waiver:**
 - If applying for a Nonavailability Waiver, responses to the following are required:
 - A description of the due diligence performed by the applicant, including names and contact information of the manufacturers, distributors, or suppliers contacted for quotes (minimum 3), and the responses provided.
 - In the instance that the lead time to obtain a BABA compliant item is excessive, please attach documentation which indicates:
 - The sum of the project cost and product that was identified;
 - The cost differential between the BABA compliant product and the non-BABA compliant product that increases the overall project cost to be above the threshold of 25%; and
 - Any quality or quantity issues that were interfaced in the BABA compliant process.
 - **Unreasonable Cost Waiver:**
 - If applying for an Unreasonable Cost Waiver, responses to the following are required:
 - What is the additional cost of the BABA compliant item, compared to using iron and steel, manufactured products, and construction materials of non-domestic or unknown origin?
 - Please demonstrate how the BABA compliant item increases the total project cost by more than 25 percent.
 - Attach documentation of prices for BABA compliant and non-compliant items for the cost comparison.
 - **Public Interest Waiver:**
 - If applying for a Public Interest Waiver, responses to the following are required:
 - Explain how waiving the BABA requirement for this project or product serves the public interest.
- Provide any additional information for HUD's consideration of the requested waiver;
- Identify any anticipated impacts if no waiver is issued;
- Include the following language at the end of the waiver application letter to certify that the Grant Recipient made a good faith effort to solicit bids for domestic products supported by terms included in requests for proposals, contracts, and nonproprietary communications with the prime contractor;
 - **"I/We, the undersigned, certify under penalty of perjury that the information provided above is true and correct.**
WARNING: Anyone who knowingly submits a false claim or makes a false statement is subject to criminal and/or civil penalties, including confinement for up to 5 years, fines, and civil and administrative penalties. (18 U.S.C. §§ 287, 1001, 1010, 1012, 1014; 31 U.S.C. §3729, 3802)."
- Signed by the Authorized Official; and
- Notarized by a notary public.

Appendix 2: Project Material List

The Contractor and Engineer should fill out the first three columns of this form and provide it to the Grant Administrator before the first pay application is submitted. TDA will not release funds for construction until the full list of materials is entered on the BABA Reporting Page in TDA-GO. The material cost may not be known up front, but that should be provided prior to requesting funds for the bid item that material is used in.

For BABA Material Classification, indicate if the Material is an "Iron and Steel Product", "Section 70917(c) Material", "Construction Material", or "Manufactured Product" as defined in Section 3 of TDA's *A401 Build America, Buy America (BABA) Implementation Procedures for the Texas Community Development Block Grant Program (TxCDBG)* document. Use additional pages as necessary to list all permanently installed materials.

	Name of Permanently Installed Material	Bid Item #(s) the Material Is Used In	BABA Material Classification	Total Cost of the Material
1				
2				
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Certification of Bidder Regarding BABA Requirements for TxCDBG Projects

GRANT RECIPIENT NAME ("Owner")

TxCDBG GRANT NUMBER

The undersigned ("Bidder") acknowledges to and for the benefit of the _____ ("Owner") and the Texas Department of Agriculture (TDA) that it understands the goods and services under this Agreement are being funded with federal monies allocated through the U.S. Department of Housing and Urban Development (HUD) and have statutory requirements commonly known as "Build America, Buy America;" that requires all of the iron and steel, manufactured products, and construction materials used in the project to be produced in the United States ("Build America, Buy America Requirements") including iron and steel, manufactured products, and construction materials provided by the Contactor pursuant to this Agreement.

The undersigned hereby represents and warrants to and for the benefit of the Owner and Funding Authority:

- (a) the Bidder has received and reviewed TDA's A401 *Build America, Buy America (BABA) Implementation Procedures for the Texas Community Development Block Grant Program (TxCDBG)* document and understands the Build America, Buy America Requirements outlined therein,
- (b) all of the iron and steel, manufactured products, and construction materials used in the project must be produced in the United States in a manner that complies with HUD and TDA's Build America, Buy America Requirements as outlined in TDA's A401 *Build America, Buy America (BABA) Implementation Procedures for the Texas Community Development Block Grant Program (TxCDBG)* document, unless a waiver of the requirements is approved, and
- (c) the Owner, TDA, or HUD may request any further verified information, certification or assurance of compliance necessary to support documentation of Build America, Buy America compliance, at any time.

Notwithstanding any other provision of this Agreement, any failure to comply with HUD and TDA's Build America, Buy America Requirements as outlined in TDA's A401 *Build America, Buy America (BABA) Implementation Procedures for the Texas Community Development Block Grant Program (TxCDBG)* document OR knowingly submitting a false claim or making a false statement regarding Build America, Buy America compliance may result in delayed reimbursement of pay applications, findings of noncompliance, and potential disallowed costs.

The Bidder has no direct contractual privity with TDA, as an awardee to the Owner for the funding of its project. As such, the Owner and the Bidder agree that TDA is a third-party beneficiary and neither this paragraph (nor any other provision of this Agreement necessary to give this certification force or effect) shall be amended or waived without the prior written consent of TDA.

NAME AND ADDRESS OF BIDDER (include ZIP Code)

NAME AND TITLE OF SIGNER

SIGNATURE

DATE