

Community Services Policy Manual

1700 Series

DOE BIL Policy

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1701 – SERIES PURPOSE

PURPOSE

BIL (Bipartisan Infrastructure Law) is a multiyear stimulus grant that is available to the Michigan Weatherization network in addition to annual formula funds. In general, the funds follow the same rules as DOE WAP funds and will follow the rules outlined in the CSPM 600 series. Any exceptions to CSPM 600 or BIL specific rules are outlined in this series. When seeking allowabilities in the BIL program, please refer to both the CSPM 600 and 1700 series.

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1702 – MULTIYEAR MANAGEMENT OF GRANTS

REFERENCES

- Weatherization Program Notice BIL 22-1

PURPOSE

BIL is a multiyear grant that requires multiyear planning from MDHHS-BCAEO. For that reason, there will be different grant management aspects to consider for Grantees.

POLICY

BIL State Plan

MDHHS-BCAEO submitted a multiyear State Plan to DOE that included a 5-year plan identifying the following:

- Program Management: Evaluation of current staffing levels and identification of needed positions to either hire or contract out, needed state-level positions for training, monitoring and oversight expansion, procurement and Buy America requirements and Davis-Bacon management.
- Subgrantee Network: Plans on how to manage the Subgrantee Network and consideration of adding local organizations.
- Production and Expenditures: Discuss the approach on how the Subgrantee Network will meet the identified BIL production and expenditures targets along with the Administration BIL goals - to reduce carbon emissions, provide good paying jobs, and reduce Greenhouse Gas (GHG) emissions.
- Training: The Training & Technical Assistance (T&TA) Plan must detail the required or needed MDHHS-BCAEO staff and Subgrantee network training to ramp up the workforce to perform the weatherization work along with the other elements identified within Training & Technical Assistance Approach and Activities guidance of the DOE Application Instructions. MDHHS-BCAEO was strongly encouraged to include in the T&TA plan a transition to high quality jobs and DOE encourages applicants to work with labor organizations to meet the demand for workers.
- Monitoring: With the BIL funds, MDHHS-BCAEO is responsible to expand its monitoring and oversight of the Subgrantees. The monitoring plan must address the expansion along with addressing the specific requirements within WPN 20-4: Weatherization Assistance Program Monitoring Procedures.

MDHHS-BCAEO used agency feedback from surveys and the PY22 Formula Service plan to drive the data in the submission.

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The average cost per unit (ACPU) expenditure limit will remain the same throughout the expenditure of BIL grants and the life of the grant. See ACPU section below for additional information.

Allocations to Grantees

DOE intends to obligate the BIL funds based on the following milestones:

- 15% of total allocation will be granted at time of initial award (after submission and approval of the MDHHS-BCAEO budget submission to DOE).
- 35% of total allocation will be granted upon DOE approval of the MDHHS-BCAEO Plan that identifies planned quarterly milestones over entire the 5-year period of performance (due by October 1, 2022).
- Balance of total allocation (50%) is based on the Michigan WAP network demonstrating progress in meeting expenditures goals, production targets and reporting requirement compliance. Demonstrated progress is defined as:
 - 30% of all units estimated to be weatherized in the approved State Plan are weatherized.
 - MDHHS-BCAEO has been fulfilling its monitoring and inspection protocol as part of its approved annual State Plan.
 - MDHHS-BCAEO is monitoring local agencies at least once each year to determine compliance with programmatic, financial, and technical policies and guidelines.
 - At least 5% of the completed units are inspected by the MDHHS-BCAEO Quality Control Inspection (QCI-Technical Monitoring) staff during the course of the year.
 - Local quality control efforts are in place. MDHHS-BCAEO progress reports to DOE are acceptable, submitted in accordance with grant requirements, including being on time and accurate.
 - Monitoring reviews by DOE confirm acceptable performance.

If DOE's review reveals deficiencies, such as funds not disbursed, insufficient technical monitoring, or failure to meet reporting requirements, DOE reserves the right to place a hold on current balances and withhold funding from the Michigan WAP network until deficiencies are corrected. With the significant funding increase, Grantees should expect more frequent monitoring by DOE. DOE will conduct periodic progress reviews to assess compliance with Program requirements. These reviews will include monitoring of MDHHS-BCAEO and Grantee performance as well. DOE will also conduct technical assistance visits to assist MDHHS-BCAEO and Grantees in meeting performance requirements.

Since BIL funding dispersal is dependent on the goals above, MDHHS-BCAEO will utilize the progress toward the milestones listed above to determine adjustments to allocations of BIL funds to Grantees that may deviate from the original planned amounts. Allocations will be adjusted regularly and will not follow the allocation percentage as strictly as Formula funds.

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MDHHS-BCAEO plans to add additional Grantees in Michigan to ensure full coverage of the state and maximize the number of clients served.

Maximum Allowable Average Cost Per Unit (ACPU)

ACPU expenditure of financial assistance provided under WAP for labor, weatherization materials, and related matters cannot exceed \$6,500, as adjusted (see, 10 CFR §440.18(a) and (c)). The adjusted average for BIL grants is determined by using the percentage increase in the Consumer Price Index (CPI) (all items, United States city average) for FY 2021 or 3 percent, whichever is less. The percentage increase in the CPI for the previous 12-month period (September 2020 – September 2021) was 5.4%. Therefore, the adjusted average expenditure limit for at the time of the BIL grants is \$8,009. This average includes units computed in a multifamily building of 5 units or greater.

The allowable expenditure for the entirety of the BIL grant for the average expenditure limit will be \$8,009.

DOE notes that the BIL will significantly increase the DOE portion of funding for local weatherization efforts. With these additional funds, it is expected that each State and Grantee will develop and implement production plans, including hiring and training staff and contractors, over the first 18 months to prepare for meeting the BIL goals and expectations. For that reason, it is expected that the ACPU is higher in the first two years of the project period and becomes lower as production increases in the subsequent years.

5-Year Grants

DOE's initial BIL grant is for 5 years with MDHHS-BCAEO. If the entire project is not completed in that time and a new grant is issued, that grant cannot include carryover funding from any previous project period. Therefore, funds remaining from the previous project periods will be de-obligated and reapportioned by the Office of Management and Budget. They will then be re-obligated using the formula to all States and Territories.

DOE strongly recommends Grantees plan to execute the funding and complete most of the retrofits within in 5-year timeframe of receipt of the funding, providing relief from high energy burden through savings and improvements to the homes of low income families in the most disadvantaged communities in the country.

UNALLOWABLE COSTS

Program funds may not be used to support or oppose union organizing, whether directly or as an offset for other funds.

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1703 – SEPARATE FINANCIAL TRACKING, MONITORING AND REPORTING FOR BIL FUNDING

REFERENCES

- Weatherization Program Notice 21-1

PURPOSE

With the addition of the BIL grants, Grantees will now have two DOE funding streams (Formula and BIL) on different timelines to manage and make sure they are actively working to meet their quarterly production and expenditure milestones.

POLICY

Separate Tracking, Monitoring and Reporting

An important consideration in the execution of WAP BIL funding is ensuring it is tracked, monitored and reported on separately from WAP annual (formula) appropriations funding. MDHHS-BCAEO requires DOE BIL funds to be tracked in a separate account from DOE Formula funds, reported on a separate SOE, and managed as a separate program in the MDHHS-BCAEO selected database.

Grantees must segregate the obligations and expenditures related to funding under the BIL. Financial and accounting systems should be revised as necessary to segregate, track, and maintain these funds apart and separate from other revenue streams. With the exception of DOE WAP annual formula funds, BIL funds can be used in conjunction with other funding sources as necessary to complete projects but tracking and reporting must be separate from other funding sources to meet the reporting requirements of the BIL and OMB Guidance. Since outreach and intake is often done by staff who charge time to multiple grants, the energy audit is the earliest part of the Weatherization job process that could define if a job will be charged to BIL or DOE Formula. If the audit is charged to BIL, then that job must remain a BIL job with no future billings to DOE Formula, and vice versa.

In general, DOE BIL and DOE Formula funds may not be mixed on any Weatherization job. The exception to this rule is the WRF cost category. A job that has received DOE WRF funds may either receive DOE BIL funds or DOE formula funds for its Weatherization work.

Braiding Funds with BIL

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For information's sake in determining whether or not to bid on future grants, see the table below for funds that may or may not be combined:

WAP BIL Grant	WAP Formula Grants
Grantees can weatherize a home using the WAP BIL grant funds WITH one of the following grants that was generated from the BIL (if awarded): <ul style="list-style-type: none"> • BIL Sustainable Energy Resources for Consumers (SERC) Grant • BIL Enhancement and Innovation (E&I) Grant 	Grantees can weatherize a home using their regular annual DOE WAP grant funds WITH one of the following grants that was generated from the WAP annual appropriation (if awarded): <ul style="list-style-type: none"> • SERC Grant • E&I Grant • Community Scale Grant

UNALLOWABLE COSTS

Program funds may not be used to support or oppose union organizing, whether directly or as an offset for other funds.

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1704 – DAVIS-BACON ACT (DBA) REQUIREMENTS

REFERENCES

- Bipartisan Infrastructure Law (BIL)
- Weatherization Program Notice BIL 22-1

PURPOSE

“Section 41101” of the BIL referenced in subpart (b), is an application of the Davis-Bacon prevailing wage requirement. Accordingly, any **BIL-funded weatherization work on multifamily buildings with no fewer than 5 units** will be required to pay wages to all laborers and mechanics engaged in the construction, alteration, or repair of those multifamily buildings (whether employed by a contractor or subcontractor) wages “at rates not less than those prevailing on similar projects in the locality, as determined by the Secretary of Labor.”

The Department of Energy (DOE) will issue additional guidance regarding these prevailing wage requirements—particularly around methods of reporting compliance with the prevailing wage requirement—as soon as it is available.

In the interim, Grantees must ensure that they will incorporate Davis-Bacon requirements into their program management and accounting/tracking systems to ensure all laborers and mechanics employed by contractors and subcontractors on multifamily building projects with not fewer than 5 units funded directly by or assisted in whole or in part by and through the Federal Government pursuant to the BIL shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor.

Until further guidance is released by DOE, the policy around Davis-Bacon requirements during ARRA is outlined below (with grant appropriate updates made) to give Grantees an idea of the process to maintain Davis-Bacon Act (DBA) compliance. The process will possibly adjust or look different when DOE releases further guidance.

POLICY

Cost Effectiveness (SIR) Determinations

Under 10 CFR 440.21(d), each individual weatherization material and package of weatherization materials installed in an eligible dwelling unit must be cost-effective.

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These materials must result in energy cost savings over the lifetime of the measure(s), discounted to present value, that equal or exceed the cost of materials, installation, and on-site supervisory personnel as defined by DOE.

Per the terms of the BIL, higher wage rates on multifamily buildings with not fewer than 5 units may not meet the cost-effectiveness requirement established in regulation, whereas the same measures would be cost-effective if installed on low-rise buildings. Therefore, as per WPN 10-4, for purposes of calculating cost-effectiveness, a local agency may use either the weatherization labor rates or the commercial prevailing wage for weatherization measures installed in high-rise buildings. However, in accordance with BIL requirements, prevailing wages for labor must be paid.

Basic Records

The Grantee and subcontractor shall maintain the full social security number and current address of each covered worker. This list must be retained until the DOE BIL Grant is closed (at minimum through 2027).

Weekly Payrolls

- All weekly payrolls must be submitted on the U.S. Department Of Labor (DOL) form **WH-347**, or by a form approved by Bureau of Community Action and Economic Opportunity (BCAEO). Form WH-347 is available from the Wage and Hour Division website at:
<http://www.dol.gov/whd/forms/wh347.pdf>
- Grantees with crews – Grantee staff completes and sends WH-347 with **original signature** weekly to BCAEO.
- Grantees with subcontractors – subcontractor completes and sends WH- 347 to the Grantee. The Grantee **reviews** payrolls for DBA compliance and then forwards **original signature** payrolls to BCAEO. A signed and dated “Confirmation of Review” form must accompany all payroll records submitted.
- Subcontractors and Grantees with crews must submit their payrolls within seven working days of the payroll date.
- Grantees with subcontractors must batch the submitted payrolls and submit weekly to the BCAEO.

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- The WH-347s shall be numbered sequentially through the entire BIL Agreement period. If a subcontractor has no DBA work during a week, a numbered SF-347 shall be submitted with “NO WORK” noted on the form.
- For subcontractors, weekly payrolls shall be submitted to the Grantee by the subcontractor(s). If subcontractor worked for more than one Grantee during the week, the Addendum to Payroll Certification Form 347 should be completed and attached.
- **Owners who perform duties of laborer or mechanic** – Bona fide owners who are exempt pursuant to Department of Labor regulations, found at 29 CFR Part 541, are not laborers and mechanics and are not subject to the DBA. The owner must provide documentation to the Grantee demonstrating that he/she is truly a bona fide "owner." This would include information such as the individual’s Federal Tax ID number and a copy of the business license to assure the entity it is contracting with is a company and who is the owner(s). This documentation must be placed in the subcontractor’s file. If the owner has no employees and is not going to hire anyone, then the owner would be exempt from the DBA and there is no requirement to complete a certified payroll.

If, however, the owner has employees, the WH-347 must be completed and submitted. The owners who also perform construction work should list themselves on the certified payroll and under the column for "Work Classification" insert the word "owner." Additionally, the owner of a contracting or subcontracting company, or authorized officer or employee who supervises the payment of wages must sign the Statement of Compliance for the certified payroll.

Completing the WH-347

- In general, follow the DOL Instructions for Payroll Form, WH-347.
- Project and Location – Enter “DOE BIL WAP” and city(ies) where work was done.
- Project or contract number – Enter Grantee name
- Name and Individual Identifying Number – Enter employee name, last four digits of SSN (or other employer ID number, city where work was done and Wx Job number (if known).

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- If subcontractor worked for more than one Grantee during the week, the Addendum to Payroll Certification Form 347 should be completed and attached.
- Use a separate line for each job the individual worked during the report week, or, use the Addendum to indicate multiple job sites.

Davis Bacon and Basic and Payroll Records Submission

Submit your weekly payroll certification forms with the signed **Review Confirmation Form** to:

Department of Health and Human Services
 Bureau of Community Action and Economic Opportunity
 PO Box 30037
 Grand Tower, Suite 1105
 235 South Grand Avenue
 Lansing, MI 48909-7537
 ATTENTION: Davis Bacon Payroll

Davis-Bacon Poster

A copy of the DOL poster WH1321, “Notice to Employees,” and the schedule of prevailing wage rates must be visible to workers at the work site, or in the contractor’s office, if the workers meet there daily before going to the work site. For the Contracting Office space on the poster, enter “Bureau of Community Action and Economic Opportunity, (517) 241-4871.”

Monitoring

The Grantee is required to complete at least one on-site review of each subcontractor within the first two months the effective date of this Item or within two months of contract signing, whichever is later, to initially ensure compliance with all DBA-related requirements. During this process the Grantee must review the site to ensure that the required Davis Bacon information (poster and applicable prevailing wage rates) is present and in clear sight. It should also be determined if the current workers are aware of their rights under Davis Bacon. During these visits, the

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Grantee must interview at least 25% of the workers, using form **SF-1445, Labor Standards Interview**, to ensure certified payrolls state the proper amounts paid. If the workers cannot confirm the payroll reported, further investigation and discussion will have to be performed with the subcontractor to ensure reporting was accurate. Interviews should be performed on at least 25% of the staff on-site. A follow-up visit is required at least once annually or if the staff of the contractor has significantly changed subsequent to the initial on-site review. This applies to **ALL** subcontractors of the Grantee.
 Sampling of the pool of subcontractors will not be allowed for this procedure.

A summary of the site visit and copies of the interview forms must be submitted within 30 days of the site visit to:

Department of Health and Human Services
 Bureau of Community Action and Economic Opportunity
 P.O. Box 30037
 Grand Tower, Suite 1105
 235 South Grand Avenue
 Lansing, MI 48909-7537
 ATTENTION: Davis Bacon Payroll

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1705 – BUILD AMERICA, BUY AMERICA (BABA)

REFERENCES

Weatherization Program Notice BIL 22-1

Weatherization Program Memorandum 104 – Revised

Public Law 117-58 - Infrastructure Investment and Jobs Act - Section 70914
2 CFR 184

CSPM Attachments:

Attachment – Buy America, Build America – Project Applicability Form

Attachment – Buy America, Build America - Waiver Submission Form

POLICY

On November 15, 2021, the President signed into law the Infrastructure Investment and Jobs Act (IIJA) (Public Law 117-58), also referred to as the Bipartisan Infrastructure Law (BIL), which provides funding for the Department of Energy’s (DOE) Weatherization Assistance Program (WAP). IIJA/BIL established a domestic content procurement preference for all federal financial assistance obligated for infrastructure projects after **May 14, 2022**, known as Build America, Buy America (BABA).

Awards made by DOE WAP after May 14, 2022, are subject to this law under specific circumstances:

- WAP Annual Formula Grants for Program Year (PY) 2022 and beyond
- WAP Bipartisan Infrastructure Law (BIL) Grants
- WAP Enhancement & Innovation (E&I) Grants
- WAP Sustainable Energy Resources for Consumers (SERC) Grants
- WAP Community Scale Pilot Program (CSPP) Grants

Definitions:

Public – For purposes of this guidance, infrastructure should be considered “public” if it is: (1) publicly owned or (2) privately owned but utilized primarily for a public purpose. Infrastructure should be considered to be “utilized primarily for a public purpose” if it is privately operated on behalf of the public or is a place of public accommodation. The Buy America Requirement does not apply to non-public infrastructure.

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Infrastructure Projects: The applicable projects are awards for, or awards that contain, construction, alteration, maintenance, or repair of public infrastructure in the United States. Infrastructure includes, at a minimum, the structures, facilities, and equipment located in the United States 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;
- buildings and real property; and
- generation, transportation, and distribution of energy - including electric vehicle (EV) charging.

In accordance with Section 70914 of [BIL](#), project funds (including the federal share and the recipient cost share) may **NOT** be used for a project for infrastructure unless:

1. All iron and steel used in the project are produced in the United States—this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
2. All manufactured products used in the project are produced in the United States—this means the manufactured product was 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 is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation.
3. All construction materials are manufactured in the United States— this means that all manufacturing processes for the construction materials occurred in the United States.

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Construction materials includes an article, material, or supply that consists primarily of:

- Non-ferrous metals
- Plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables)
- Glass (including optic glass)
- Lumber
- Drywall

The term “Construction materials” does not include cement and cementitious materials, aggregates such as stone, sand, or gravel, or aggregate binding agents or additives.

This requirement must flow down to all sub-awards, all contracts, subcontracts and purchase orders for work performed under the infrastructure project.

Per BABA requirements, most projects typically addressed by WAP will **not** be subject to these requirements. **Only weatherization on public housing, or on privately owned buildings that serve a public function are required to comply with the BABA requirements.**

Michigan requires that all client and/or project files have documentation identifying the property owner of dwellings to be weatherized. Privately owned single family homes would not be subject to BABA requirements. Multifamily project files must contain documentation that the project does not meet BABA requirements, or documentation of BABA compliance. (See attachment to CSPM ‘Buy America, Build America – Project Applicability Form’)

Absent a project-specific waiver (see below), BABA requirements must flow down to all sub-awards, contracts, subcontracts, and purchase orders for articles, materials, and supplies that are consumed in, incorporated into, or affixed to a DOE funded project. BABA 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. Nor do BABA requirements apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or

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within the finished infrastructure project but are not an integral part of the structure or permanently affixed to the infrastructure project.

SITE SPECIFIC WAIVERS

While BABA waivers are possible, it is expected that they will add a considerable amount of time to the administrative approval process. In order to keep the projects moving, MDHHS-BCAEO recommends that subgrantees consider waivers sparingly. Waivers must include sufficiently supported justification statements to be considered.

When necessary, recipients may apply for a waiver from the Buy America Preference requirements. Requests to waive the application of the Buy America Preference must be in writing. Waiver requests are subject to public comment periods of no less than 10 days, as well as review by the Office of Management and Budget (OMB). Recipients should be advised that “best efforts” to determine that iron, steel, manufactured goods, and/or construction materials are BABA compliant cannot be accepted; recipients should consider contacting an item’s manufacturer, in writing (email or otherwise) to determine whether that product meets the BABA standard. If the manufacturer is unable or unwilling to certify the product as BABA compliant, resulting in the recipient needing to seek a BABA waiver, those communications will serve as the foundation of a waiver request.

Waivers must be based on one of the following justifications:

1. Applying the Buy America Preference would be inconsistent with the public interest (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 (Nonavailability).
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 (Unreasonable Cost).

Requests to waive the Buy America Preference must be submitted to BCAEO Technical Staff. BCAEO will work with the DOE PO on approval. Submissions must include:

- Waiver type (Public Interest, Nonavailability, or Unreasonable Cost)
- Recipient name and Unique Entity Identifier (UEI)
- Detailed justification as to how the non-domestic item(s) is/are essential the project.

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- Certification that the recipient made a good faith effort to solicit bids for domestic products supported by terms included in requests for proposals, contracts, and non-proprietary communications with potential suppliers.

This is arguably one of the most crucial data points that must be provided. The recipient should describe the good faith effort(s) undertaken to locate BABA-compliant products in as much detail as possible. Waiver requests that lack detail on this item will very likely be sent back for additional detail(s).

- Total estimated project cost, with estimated Federal share and recipient cost share breakdowns
- Total estimated infrastructure costs, with estimated Federal share and recipient cost share breakdowns
- Brief description of the project, its location, and the specific infrastructure involved.
- List and description of iron or steel item(s), manufactured goods, and/or construction material(s) the recipient seeks to waive from the Buy America Preference, including name, cost, country(ies) of origin, and relevant PSC and NAICS codes for each.
- Justification statement—based on one of the applicable justifications outlined above (e.g., non-availability, unreasonable cost, or public interest)—as to why the items in question cannot be procured domestically, including the due diligence performed (e.g., market research, industry outreach) by the recipient to attempt to avoid the need for a waiver. This justification may cite, if applicable, the absence of any Buy America-compliant bids received for domestic products in response to a solicitation.
- Anticipated impact to the project if no waiver is issued.

Michigan Subgrantees should use the 'BABA Waiver Submission Form' Attachment to this CSPM to guide waiver submission to BCAEO.

Additional information for consideration of this waiver may be requested by either BCAEO or DOE. Subgrantees must respond promptly to requests for additional information supporting the BABA waiver. DOE's final determination regarding approval or rejection of the waiver request may not be appealed.

Regarding the justification statement: DOE has indicated that well-justified waiver requests citing non-availability or unreasonable cost are more likely to be granted, because these things can, to an extent, be verified by the data provided. Waivers based

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on the “public interest” justification will have much more difficulty being approved, because of the subjective nature of what is “in the public interest.” Recipients are advised to plan their waivers accordingly.

ENERGY AUDIT CONSIDERATIONS:

When performing energy audits to determine the cost effectiveness (SIR) of measure installations for dwellings where BABA applies, auditors may use previously procured material pricing that is applied to other WAP projects. This will prevent delays in the energy auditing process related to future materials price fluctuations and the extended procurement procedures necessary to comply with the provisions of BABA.

Only the energy audit may use non-BABA compliant material pricing. All materials installed in dwellings where BABA applies, must still comply with BABA requirements.

DOE is working closely with the BABA team to track policy determinations issued by OMB and will issue subsequent BABA guidance whenever updates to BABA policy are made. BCAEO will communicate updated BABA guidance to the Michigan Weatherization Network.

DOE has created a website which includes an overview of BABA as well as additional guidance on submitting a DOE Buy America Waiver at:
<https://www.energy.gov/management/build-america-buy-america>.

Contract Language:

The Buy America Requirement term and condition must be included all sub-awards, contracts, subcontracts, and purchase orders for work performed under the infrastructure project. Michigan Subgrantees must refer to contract language for Award Terms and Conditions language.

MICHIGAN DEPARTMENT OF HEALTH & HUMAN SERVICES		Item 1706	Page 1 of 4
Community Services Policy Manual	SUBJECT: Weatherization Assistance Program – BIL NATIONAL ENVIRONMENTAL POLICY ACT (NEPA)		EFFECTIVE DATE 10/1/2022 ISSUE DATE 10/1/2022

1706 –NATIONAL ENVIRONMENTAL POLICY ACT (NEPA)

REFERENCES

Weatherization Program Notice BIL 22-1

PURPOSE

Effective with WPN 20-1, DOE determined certain activities are categorically excluded from further NEPA review, absent extraordinary circumstances, cumulative impacts, or connected actions that may lead to significant impacts on the environment, or any inconsistency with “integral elements” (as contained in 10 CFR Part 1021, Appendix B) as they relate to the activities listed in the PY 2021 NEPA determination. These exclusions have continued in PY22.

POLICY

MDHHS-BCAEO has determined that all regular WAP activities are excluded from further NEPA review following the above referenced guidance. This does not mean they are excluded from SHPO consultation, and Grantees must follow SHPO guidance as specified in CSPM 619.

MDHHS-BCAEO is required to attend a DOE led online training covering NEPA and Historic Preservation that will be available in 2022. The training will target all WAP stakeholders and MDHHS-BCAEO will determine if Grantees will be required to participate in it after participating. The intention of the training is to better understand NEPA, Historic Preservation, and how to complete reporting requirements for each. DOE will notify MDHHS-BCAEO when the training is available, and MDHHS-BCAEO will in turn notify Grantees of its expectations of their participation after participating.

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Community Services Policy Manual	SUBJECT: Weatherization Assistance Program – BIL WORKFORCE DEVELOPMENT		EFFECTIVE DATE 10/1/2022 ISSUE DATE 10/1/2022

1707 – WORKFORCE DEVELOPMENT

REFERENCES

Weatherization Program Notice BIL 22-1

PURPOSE

In addition to BIL requirements, DOE is applying several Administration priorities to the expenditure of these funds, including focusing funding on workforce development and diversity, inclusion, and equity on delivering funds and the benefits of funding across communities in the United States.

POLICY

With BIL funds, DOE anticipates significant opportunities in attracting, training, and retaining new employees and contractors to the WAP. Additionally, BIL funds provide an opportunity to diversify a high-quality and well-trained WAP, building the clean energy workforce. MDHHS-BCAEO has received a BIL T&TA allocation to support workforce development activities and has included a plan to attract, retain, or transition a local workforce needed to enable the project goals.

MDHHS-BCAEO plans to further outreach with workforce development partners. This may include, but is not limited to: unions, community colleges, potential supportive services, and use of Registered Apprenticeships or other joint, labor-management partnerships training programs, or other high-quality training models.

In addition, Grantees must ensure WAP workers receive comprehensive training on a regular basis, as defined in CSPM 618, for the position in which the worker is employed. DOE will assess the degree to which WAP contributes to high-quality job creation by supporting good-paying jobs with a free and fair choice to join a union and incorporate strong labor standards, such as through the use of project labor agreements. DOE will continue to develop resources to address any additional barriers and improve ability to increase workforce expansion and diversity. Further, MDHHS-BCAEO encourages its Grantees to braid funds to increase deployment of additional technologies (including electrification), workforce expansion, project construction, and in on-going operations and maintenance.

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Community Services Policy Manual	SUBJECT: Weatherization Assistance Program – BIL FUEL SWITCHING AND ELECTRIFICATION		EFFECTIVE DATE 10/1/2022 ISSUE DATE 10/1/2022

1709 – FUEL SWITCHING AND ELECTRIFICATION

REFERENCES

- Weatherization Program Notices BIL 22-1, 19-4, 22-7
- Weatherization Assistance Program Memo 094

PURPOSE

To achieve the Administration’s goal of delivering more equitable clean energy Grantees may prioritize fuel switching and electrification as allowable in the WAP.

POLICY

In an effort to achieve the Administration’s goal of delivering more equitable clean energy, Grantees are reminded they may perform cost-effective fuel-switching installations as outlined in current DOE guidance (WPN 19-4) utilizing any combination of funds available including E&I and SERC funds for this purpose. Health and Safety related fuel-switching is also allowed as outlined in the current DOE guidance (WPN 22-7). Any Grantee that desires to administer fuel-switching may submit a request to implement the necessary procedures and policies to MDHHS-BCAEO@michigan.gov. Please see CSPM 610 for more details on fuel switching allowability.

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Community Services Policy Manual	SUBJECT: Weatherization Assistance Program DATA REQUESTS AND CONFIDENTIALITY – ADDITIONAL GUIDANCE		EFFECTIVE DATE 10/1/2022 ISSUE DATE 10/1/2022

1710 – DATA REQUESTS AND CONFIDENTIALITY – ADDITIONAL GUIDANCE

REFERENCES

Weatherization Program Notice BIL 22-1

PURPOSE

To supplement guidance in CSPM 623 on Participation in Weatherization Related Evaluations, Studies, and Surveys

POLICY

Participation in Additional Evaluations/Studies

With the increase of T&TA BIL funding, DOE WAP plans to invest in national program evaluations to update previously completed studies and assess the progress and success of new programs. MDHHS-BCAEO and Grantees will be expected to participate in these studies.

Retrospective evaluations will provide insight on program outcomes such as:

- Energy and non-energy impacts
- Benefits delivered to disadvantaged communities
- Weatherization workforce demographics and diversity

Grantees must adhere to all the rules and parameters for participation in studies outlined in CSPM 623. All requests to participate in Weatherization related Evaluations, Studies, and Surveys must be submitted for approval to MDHHS-BCAEO.

Build America, Buy America (BABA) Act – Waiver Form

MDHHS-BCAEO

Policy Reference: WAP Memo 104; <https://www.energy.gov/management/build-america-buy-america>, and MDHHS CSPM 625 & 1705

Submit to: MDHHS-BCAEO@Michigan.gov and BCAEO Technical Staff

Recipient name:			
Unique Entity Identifier:			
Waiver Type:	<input type="checkbox"/> Public Interest	<input type="checkbox"/> Nonavailability	<input type="checkbox"/> Unreasonable Cost
<p>Certification that the recipient made a good faith effort to solicit bids for domestic products supported by terms included in requests for proposals, contracts, and non-proprietary communications with potential suppliers.</p> <p>The recipient must describe the good faith effort(s) undertaken to locate BABA-compliant products in as much detail as possible. Waiver requests that lack detail on this item will very likely be sent back for additional detail(s).</p>			
Provide a detailed justification as to how the non-domestic item(s) is/are essential to the project.			
Total Estimated Project Cost (with estimated Federal share and recipient cost share breakdowns):	\$		
Total Estimated Infrastructure Cost (with estimated Federal share and recipient cost share breakdowns):	\$		
Provide a brief description of the project, its location, and the specific infrastructure involved.			
<p>List and describe the iron or steel item(s), manufactured goods, and/or construction material(s) the recipient seeks to waive from the Buy America Preference, including name, cost, country(ies) of origin, and relevant PSC and NAICS codes for each.</p>			
What is the anticipated impact to the project if no waiver is issued?			
<p>Justification statement:</p> <p><i>Based on one of the applicable justifications outlined above (e.g., non-availability, unreasonable cost, or public interest)—as to why the items in question cannot be procured domestically, including the due diligence performed (e.g., market research, industry outreach) by the recipient to attempt to avoid the need for a waiver. This justification may cite, if applicable, the absence of any Buy America-compliant bids received for domestic products in response to a solicitation.</i></p>			

Build America, Buy America (BABA) Act – Project Applicability Form

MDHHS-BCAEO

This document confirms that the Subgrantee, named below, acknowledges the BABA requirements per MDHHS-BCAEO and DOE policies. The project outlined below is exempt from BABA requirements according to the applicable definitions and guidelines.

Subgrantee:	
Project Name:	
Project Location:	
Building Owner Main Contact:	

I _____ certify that this project is a privately owned building that does not serve a public function.

Signatory Full Name: _____ Date: _____

Signatory Title: _____

Policy Reference: WAP Memo 104; <https://www.energy.gov/management/build-america-buy-america>, and MDHHS CSPM [600](#) & [1700](#)

On November 15, 2021, the President signed into law the Infrastructure Investment and Jobs Act (Public Law 117-58), also referred to as the Bipartisan Infrastructure Law (BIL), which provides funding for the Department of Energy’s (DOE) Weatherization Assistance Program (WAP). BIL established a domestic content procurement preference for all federal financial assistance obligated for infrastructure projects after May 14, 2022, known as Build America, Buy America (BABA).

Awards made by DOE WAP after May 14, 2022, are subject to this law under specific circumstances:

- WAP Annual Formula Grants for Program Year (PY) 2022 and beyond
- WAP Bipartisan Infrastructure Law (BIL) Grants
- WAP Enhancement & Innovation (E&I) Grants
- WAP Sustainable Energy Resources for Consumers (SERC) Grants
- WAP Community Scale Pilot Program (CSPP) Grants

Memo 104: Per BABA requirements, most projects typically addressed by WAP will not be subject to these requirements. **Only weatherization on public housing, or on privately owned buildings that serve a public function are required to comply with the BABA requirements.**

Public – For purposes of this guidance, infrastructure should be considered “public” if it is: (1) publicly owned or (2) privately owned but utilized primarily for a public purpose. Infrastructure should be considered to be “utilized primarily for a public purpose” if it is privately operated on behalf of the public or is a place of public accommodation. The Buy America Requirement does not apply to non-public infrastructure.