



# CDBG Program “Office Hours” Webinar:

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## Build America, Buy America (BABA) Requirements

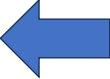
June 4, 2025

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# Introductions


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**Joanna Storm**  
*Presenter/Speaker*

**Ben Lehner**




*Co-Facilitator/Chat Monitor,  
BABA subject matter expert  
(SME)*

Division of Energy, Housing and Community Resources (DEHCR)  
Bureau of Community Development (BCD)




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## “Office Hours” Webinar Objectives:


- BABA Goals
- Applicability
- Program Requirements
- Forms
- Common Errors
- Best Practices
- Q&A



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## Build America, Buy America (BABA)

- Enacted through **Infrastructure Investment and Jobs Act** on November 15, 2021
- **Buy America Preference (BAP):**
  - For Infrastructure contracts >\$250,000 in value
  - If funded with Federal Financial Assistance (FFA)
  - Must use materials produced in the United States of America (USA)
- Goals of BABA:
  - Increasing private sector investments in American manufacturing,
  - Bolstering supply chains, and
  - Supporting job creation




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## BABA Requirements Applicability

For DEHCR CDBG grants **awarded ON or AFTER:**

BABA requirements apply to:	Jan. 1, 2023	Jan. 1, 2024	Jan. 1, 2025
• All <b>IRON</b> and <b>STEEL</b> products	✓	✓	✓
• Select construction materials specifically <b>LISTED</b> in 88 FR 17001		✓	
• <b>ALL</b> construction materials listed and not specifically listed in 88 FR 17001			✓
• <b>ALL</b> manufactured products			✓




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## BABA Applicability by Project Type

**Infrastructure** projects are generally defined as:

- Buildings & real property (including housing units of 5 or more)
- Utilities
- Water systems (drinking water & wastewater)
- Electrical transmission facilities & systems
- Broadband infrastructure
- Transportation infrastructure



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## BABA Applicability by Materials Used

### **Materials** subject to BABA:

- Iron, Steel, and Other Metals
- Plastic and polymer-based products including PVC, Vinyl, Composite building materials, Fiber optic cables
- Glass (including optic glass)
- Lumber
- Engineered wood
- Drywall
- Manufactured Products (includes pre-cast concrete)



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## BABA Applicability by Materials Used

### **Excluded** items include:

- 'Wet' cement & cementitious materials
- Aggregates such as stone, sand, and gravel
- Aggregate binding agents, additives, asphalt (aka 'Section 70917(c) materials')



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## BABA Applicability by Materials (cont.)

**“Produced in the United States”** means:

- **Iron & Steel:**  
manufacturing (melting stage through the application of coatings) occurred in the U.S.
- **Construction Materials:**  
all manufacturing processes occurred in the U.S.
- **Manufactured Products:**  
cost of the U.S. made (or mined) components contained therein is greater than **55%** of the total component cost



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## BABA Applicability: Use of Waivers

**General Waivers** *may* be available:

- For **urgent needs**: due to disaster relief/recovery efforts, etc.
- For **de minimis work**: up to 5% of costs of all BABA covered materials for entire project – up to a maximum \$1 Million

**Project-Specific Waivers** *may* be available:

- If inconsistent with the public interest
- Due to non-availability
- Due to unreasonable cost



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## BABA Applicability: Use of Waivers

### Project-Specific Waivers (continued):

- **Inconsistent with the public interest:**  
BAP requirements being so restrictive or off-putting as to create an undue hardship that is not timely or is financially detrimental to the local community/residents.
- **Non-availability:**  
Covered materials are NOT produced in the U.S. in sufficient and reasonably available quantities and/or are NOT of a satisfactory quality.
- **Unreasonable cost:**  
Inclusion of BAP-compliant materials will increase the cost of the overall project by more than 25%



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## BABA Compliance Documents

- [\*\*Attachment 03-J: BABA Requirements\*\*](#) (contract language/insertion)
- [\*\*Attachment 03-K: BABA Project-Specific Waiver Request\*\*](#) form
- [\*\*Attachment 03-L: Contractor's/Purchaser's Compliance Self-Certification\*\*](#) form
- [\*\*Attachment 03-M: Contractor's/Purchaser's Covered Materials List\*\*](#)



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# BABA Compliance Documents (cont.)

## Attachment 03-J: BABA Requirements (contract language/insertion)

- Required in:
  - Prime construction contract **bid packets**, and
  - ALL construction **prime contracts & subcontracts**

COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG)  
BUILD AMERICA, BUY AMERICA (BABA) ACT REQUIREMENTS  
FOR CONSTRUCTION CONTRACTORS AND SUBCONTRACTORS

**BACKGROUND INFORMATION**

The Build America, Buy America (BABA) Act, 41 USC § 8301 note, was enacted in the Infrastructure Investment and Jobs Act on November 15, 2021. The BABA Act specifies that products purchased in connection with infrastructure projects funded by Federal financial assistance (FFA) programs must be produced in the United States (U.S.). According to the BABA Act, "none of the funds made available for a Federal Financial Assistance program for infrastructure, including each deficient program, may be obligated for a project unless all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States." This requirement is known as the "Buy America Preference (BAP)" (or "domestic procurement requirement"). The purpose of BABA is to stimulate private sector investments in American manufacturing, bolster critical American supply chains, and support the creation of jobs so that America's workers and firms can compete and lead globally. Additional information is provided on the HUD BABA website at: <https://www.hudexchange.info/programs/baba/>


**REQUIREMENTS**

The prime contractor and all subcontractors (all tiers) must comply with the requirements of the BABA Act, 41 USC 8301 note, and all applicable rules and notices, as may be amended, as applicable to the Community Development Block Grant (CDBG) infrastructure project. Pursuant to the U.S. Department of Housing and Urban Development's (HUD's) CPD-2023-12 notice, *Public Interest Phased Implementation Waiver for FY2022 and 2023 of Build America, Buy America Provisions as Applied to Recipients of HUD Federal Financial Assistance (88 FR 17001)*, and CPD-2025-01 notice, *CPD Implementation Guidance for the Build America, Buy America Act's Buy America Preferences*, any funds obligated by HUD on or after the applicable BAP implementation dates listed in 88 FR 17001 are subject to BABA requirements, unless excepted by a waiver.

The contractor (whether a prime contractor or subcontractor – any tier) **must**:

- ensure compliance with the BAP requirement for all products and materials covered under BABA that are purchased for a CDBG infrastructure project, unless the project or item qualifies for a waiver or exemption; and
- submit the BABA Compliance Self-Certification form and Covered Materials List documents, and obtain and submit these documents from their affiliated subcontractors for the project (to be provided to the CDBG Grantee/Unit of general local government (UGLG), which transmits the documents to the State of Wisconsin Department of Administration (DOA) – Division of Energy, Housing and Community Resources (DEHCR)); and
- maintain records that verify compliance with the BAP for all products and materials covered under BABA and provide them to the CDBG Grantee/UGLG, DEHCR, HUD, and/or other regulating entities upon request, and
- receive the required approvals for any project-specific waiver request prior to purchasing any product or material not produced in the U.S. that is covered under BABA and not eligible for a general waiver or other exemption.

General waivers and project-specific waiver categories are specified in 88 FR 17001.



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# BABA Compliance Documents (cont.)

## Attachment 03-K: BABA Project-Specific Waiver Request form

- Required for individual item waiver
- Is project-specific
- Submitted by DEHCR (or other funding source) to primary Federal Funding Agency (*highest-level funder*)
- Due **after** contract award but **before** purchasing the waiver item
- Expect 6 weeks or more for fed. review

STATE OF WISCONSIN  
COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM  
BUILD AMERICA BUY AMERICA  
PROJECT-SPECIFIC WAIVER REQUEST

This form is for submitting a project-specific waiver request under the provisions of the Build America, Buy America (BABA) Act for U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant (CDBG) funded infrastructure projects awarded through the [State of Wisconsin's CDBG Small Area Program](#), administered by the Department of Administration – Division of Energy, Housing and Community Resources (DEHCR).


**Instructions:** The entity requesting a project-specific BABA waiver (i.e., the "Requesting Entity") is to review the Build America, Buy America (BABA) (i.e., Buy America Preference (BAP)) requirements and waiver information provided in the [CDBG BABA Requirements](#) contract insertion document (also linked as Attachment 3-K on the Wisconsin [CDBG Implementation Handbook](#) website under the "Chapter Attachments/Fillable Forms" section). The Requesting Entity must complete, sign, and submit this form and the required supporting documentation: Contractors, grant subrecipients, and other non-Grantee entities are to email their waiver request documents to the CDBG Grantee/Unit of General Local Government (UGLG). The CDBG Grantee/UGLG is to email waiver request documents to the DEHCR Project Representative assigned to the project. Upon reviewing the waiver request documentation and verifying that it is complete and in compliance, DEHCR will submit the required information and additional documentation to the appropriate HUD representative for further review and processing by HUD and the Made In America Office (MAIO).

**\*Note: The waiver request review and decision issuance by HUD and the MAIO may require six (6) weeks or more.**

**Resources:** [HUD Exchange BABA website](#), [BABA Waiver Resources](#), [HUD Notice CPD-2025-01](#), [HUD Notice CPD-2023-12](#), [CDBG Memo M-24-02](#)

**BABA PROJECT-SPECIFIC WAIVER REQUEST:**

CDBG Grantee and Requesting Entity Information:	
1. CDBG Grantee/UGLG Name:	2. CDBG Grant Agreement #:
3. Requesting Entity Company/Org. Name:	4. Requesting Entity Street Address:
5. Entity City Address:	6. Entity State & Zip Code:



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State of Wisconsin Department of Administration (DOA)  
Division of Energy, Housing and Community Resources (DEHCR)

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## BABA Compliance Documents (cont.)

### **Attachment 03-K:** **BABA Project-Specific Waiver Request form**

Waiver form review/approval & submission process:



\* Remember: Expect 6+ weeks (or more) for review



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## BABA Compliance Documents (cont.)

**Market research required** prior to purchasing and Waiver Request (3-K) submission (if applicable) and retain records:

- National Institute of Standards and Technology Assistance  
<https://www.nist.gov/mep/supply-chain/supplier-scouting>
- PDF/JPEG copies of web searches showing terms used, results, and findings
- Copies of correspondences with manufacturers and/or suppliers (emails, faxes, postage-paid mail, etc.)
- Notes of phone communications (dates/times, phone numbers, voicemail/representatives' names, etc.)



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## BABA Compliance Documents (cont.)

**Attachment 03-L:**  
**Contractor's/Purchaser's Compliance Self-Certification form**

- **Due upon award** of construction contracts for prime contractors
  - With prime contract Notice of Award and bid tabulation submissions to DEHCR
  - updates submitted with payment requests
- **Due with payment requests** for other contractors and other purchasers
- Payments should **not** be issued to entities until receipt of their Covered Materials List(s)





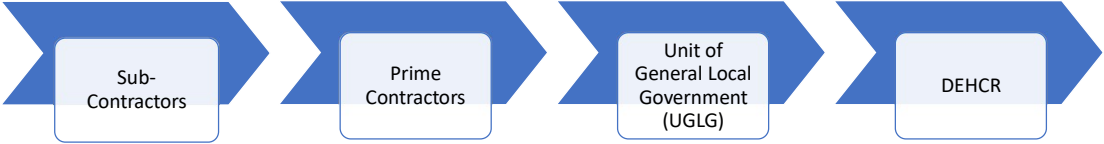
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## BABA Compliance Documents (cont.)

**Attachment 03-L:**  
**Contractor's/Purchaser's Compliance Self-Certification form**

C&P Compliance Self-Cert form review/approval & submission process:





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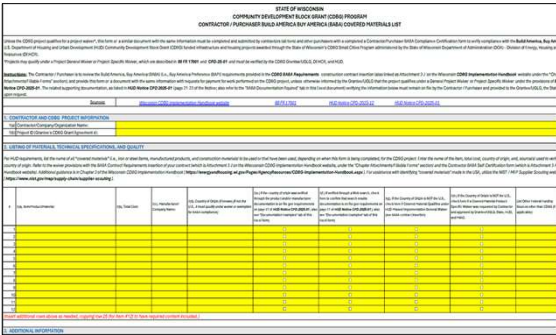
State of Wisconsin Department of Administration (DOA)  
Division of Energy, Housing and Community Resources (DEHCR)

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# BABA Compliance Documents (cont.)

## Attachment 03-M: Contractor's/Purchaser's Covered Materials List

- **Due upon award** of construction contracts for prime contractors
  - With prime contract Notice of Award and bid tabulation submissions to DEHCR
  - updates submitted with payment requests
- **Due with payment requests** for other contractors and other purchasers
- Payments should **not** be issued to entities until receipt of their Covered Materials List(s)



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# BABA Compliance Documents (cont.)

## Attachment 03-M: Contractor's/Purchaser's Covered Materials List

- Refer to “BABA Documentation Required” **2<sup>nd</sup> worksheet/tab** within the 03-M Excel workbook.

GUIDANCE ON REQUIRED BABA DOCUMENTATION PER <a href="#">HUD NOTICE CPD-2025-01</a>	
<b>BABA Covered Materials Documentation Required To Be On File:</b>	
1. Project or product waiver documentation, if applicable; and/or	
2. Covered Material documentation:	
a. Type of covered material (iron, steel, manufactured product, or construction material);	
b. Name of product or material;	
c. FFA Source(s);	
d. FFA Obligation Date(s);	
e. Costs per unit;	
f. Total cost of product purchase or contract;	
g. Manufacturer or Vendor;	
h. Actual purchaser (grantee, sub-recipient, contractor);	
i. Special Quality Standards, if applicable; and	
j. U.S. Made verification, if available (Made in the USA label, product specifications, vendor or contractor certification, etc. <b>SEE BELOW</b> ).	
<b>Examples of Country of Origin Documentation Types:</b>	
a. Product label verifying made in U.S.	
b. Product description/technical specs. verifying made in U.S.	
c. Manufacturer document verifying made in U.S.	
d. Manufacturer signed certification verifying compliance with BABA	
<b>Examples of Country of Origin Search Results Documentation Types:</b>	
a. Supplier search results documentation from NIST MEP or other supplier scoutline service	



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## BABA Compliance Documents (cont.)

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**Attachment 03-M: C/P Covered Materials List** *(continued)*

- **Contractors/Purchasers** must verify 'Made In America' (MIA) status (or Waiver/Exemption status) – **Examples:**
  - ✓ Manufacturer's certificate or website screen shot of MIA assurance
  - ✓ Records of MIA product labeling
  - ✓ Invoices with MIA assurances
  - ✓ Records of communications with producers verifying MIA status
  - ✓ Web search records showing proof of MIA status
- **Grantee** must have purchaser BABA Compliance Self-Certifications & Covered Materials Lists and waiver/exemption records (as applicable) on file



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## BABA Compliance Documents (cont.)


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**Attachment 03-M:**  
**Contractor's/Purchaser's Covered Materials List**

Covered Materials List review/approval & submission process:



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graph LR; A[Sub-Contractors] --> B[Prime Contractors]; B --> C[Unit of General Local Government (UGLG)]; C --> D[DEHCR]
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# BABA Compliance Summary

## Attachment 03-N: Summary of BABA Documents & Requirements


- Applicable upon grant award to grantees, and subsequent contract award for construction contractors (primes & subs)
- Guidance document for grantees, subrecipients, and construction contractors (primes & subs)

State of Wisconsin Community Development Block Grant (CDBG) Program  
Division of Energy, Housing and Community Resources (DEHCR)

SUMMARY OF BUY AMERICA, BUILD AMERICA (BABA) COMPLIANCE DOCUMENTS & REQUIREMENTS FOR CDBG PROJECTS


\*Contractors\* refers to all construction prime contractors and subcontractors unless otherwise noted.

DOCUMENT:	WHEN APPLICABLE OR DUE:	COMPLIANCE REQUIREMENT
1. HUD Notice <a href="#">CPD-2022-12</a> : Public Interest Phased Implementation Waiver for FY2022 and 2023 of BABA Provisions as Applied to Recipients of HUD Federal Financial Assistance <a href="#">[See FF-12001]</a>	• Effective for grantees upon CDBG award	• State/DEHCR, CDBG grantees, subrecipients, and construction contractors must comply
2. HUD Notice <a href="#">CPD-2022-01</a> : CPD Implementation Guidance for the BABA's Buy America Preferences	• Effective for grantees upon CDBG award	• Same as above
3. CDBG grant agreement – Attachment F [§8. BABA] (executed in 2023 and later)	• Effective upon CDBG award date and CDBG grant agreement execution date	• State/DEHCR must include in grant agreements; CDBG grantee is subject to terms and conditions
4. <a href="#">Chapter 3: Procurement and Contracting</a> of the <a href="#">CDBG Implementation Handbook</a> [BABA Requirements section] <a href="#">[Released 9/8/23, Updated 4/14/25]</a>	• Effective upon CDBG award date	• CDBG grantee is subject to compliance and ensuring subrecipients' and construction contractors' BABA compliance
5. BABA Contract Requirements contract insertion [Handbook, <a href="#">Attachment 3-J</a> ] <a href="#">[Released 9/8/23, Updated 4/14/25]</a>	• Due/required in prime construction contract bid packets and contracts AND construction subcontracts	• CDBG grantee and all contractors must include in all construction prime contract bid packets prime contracts, and subcontracts




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# Additional Resources

- DEHCR Staff
- Implementation Handbook
- CDBG Forms / Templates
- HUD CPD Notices
- Recorded Trainings



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## Additional Resources

DEHCR's CDBG Implementation Handbook and Attachments (Chapter 3)

<https://energyandhousing.wi.gov/Pages/AgencyResources/CDBG-Implementation-Handbook.aspx>

HUD NOTICE CPD 25-01: Compliance Details

<https://www.hudexchange.info/resource/7335/notice-cpd-2025-01-cpd-implementation-guidance-for-the-build-america-buy-america-acts-buy-america-preference/>



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## Resources

**DEHCR – Bureau of Community Development**



**Email:** [DOACDBG@Wisconsin.gov](mailto:DOACDBG@Wisconsin.gov)



**Bureau Website:**

<https://energyandhousing.wi.gov/Pages/CommunityResources.aspx>



**CDBG Implementation Handbook:**

<https://energyandhousing.wi.gov/Pages/AgencyResources/CDBG-Implementation-Handbook.aspx>



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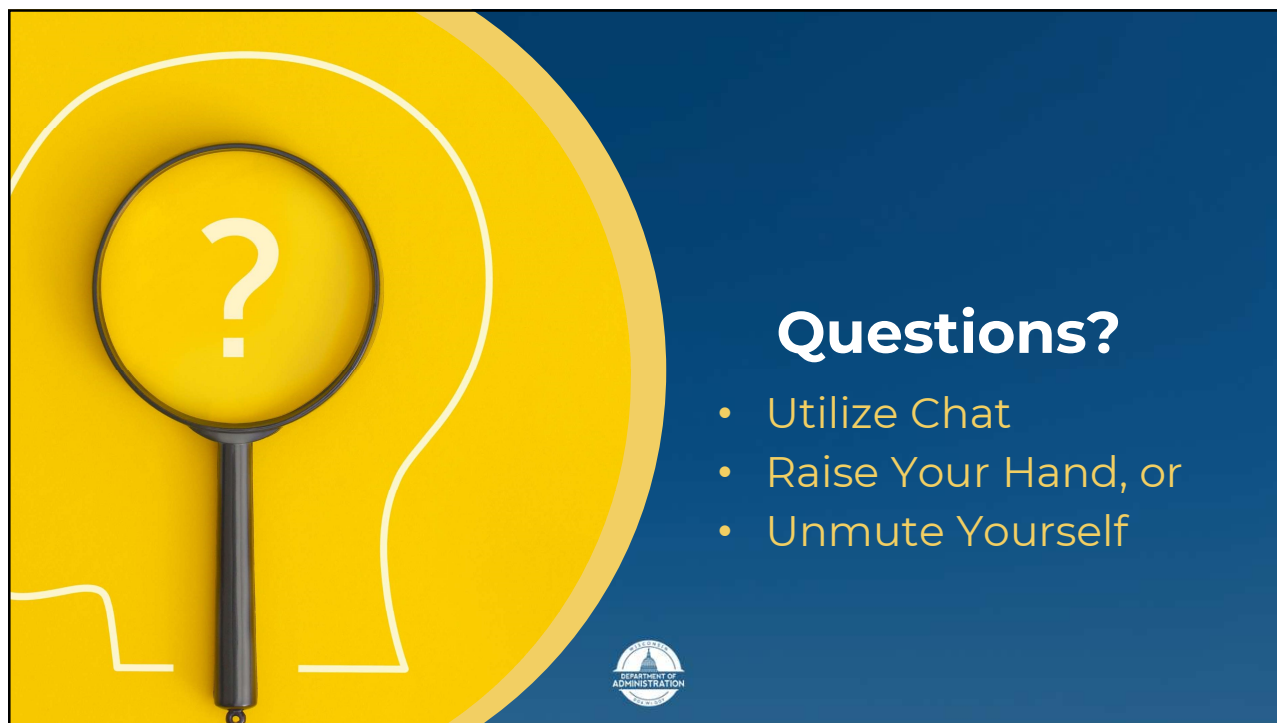
## Thank You for Joining Today's Discussion

- We've reached the end of our prepared presentation materials.
- We'll now open the discussion for Q&A.
  - Utilize chat,
  - Raise your hand, or
  - Unmute your microphone
- Staff will be available for follow-up questions.



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