Pre-decisional DRAFT

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Solicitation of Public Comment for Project-Specific Build America, Buy America Nonavailability Waiver Proposal

SUBJECT: Under Evaluation: Project-Specific Nonavailability Waiver of Build America Buy America Act (BABA) Requirements to the 2244 N. Buena Vista Affordable Housing Project for Backflow Preventor Assemblies, Mini Split Systems, Fire Alarm Systems, and Structured Cabling Systems (HUD Waiver #W-0000297)

Introduction

This solicitation of public comment by the U.S. Department of Housing and Urban Development (HUD) is to evaluate a BABA waiver request submitted by an assistance recipient based on nonavailability of a multiple products for a single project.

This solicitation of public comment does not represent a final agency decision. The purpose of this proposal is to inquire whether potential alternative domestic products may be available that were not identified by the assistance recipient or through HUD's domestic product research efforts, and whether other factors should be considered in the evaluation of a waiver.

HUD has completed its market research efforts and was unable to identify alternative domestic products meeting the technical specifications of the project, in sufficient and reasonably available quantities and of a satisfactory quality. Through this public comment period, commenters may provide information that indicates a waiver may not be needed. For example, if a specified item is found to be domestically available, HUD would not issue a final waiver.

Solicitation of Public Comment

The proposed waiver will be posted on HUD's public facing webpage and a notice of the proposed waiver will also be posted to the Made in America website, to satisfy the requirement to publish any BABA project waiver and provide the public with fifteen (15) days to submit comments. HUD is seeking public and industry comments from all interested parties and encouraging current manufacturers of the subject products to submit comments regarding potential availability. Public comments on this waiver should be submitted to BuildAmericaBuyAmerica@hud.gov. Please reference HUD Waiver #W-0000297 in the subject line.

Background

The Buy America Preference set forth in section 70914 of BABA included in the Infrastructure Investment and Jobs Act (IIJA) (Pub. L. No. 117-58), requires that all iron, steel, manufactured products, and construction materials used for infrastructure projects under Federal financial assistance awards be produced in the United States.

Pre-decisional DRAFT

Under section 70914(b), HUD may waive the application of the Buy America Preference (BAP), in any case in which it finds that: applying the domestic content procurement preference would be inconsistent with the public interest; 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; or the inclusion of iron, steel, manufactured products, or construction materials produced in the United States would increase the cost of the overall project by more than twenty-five (25) percent. All waivers must have a written explanation for the proposed determination; provide a period of not less than fifteen (15) days for public comment on the waiver; and be submitted to the Office of Management and Budget's (OMB) Made in America Office for review to determine if the waiver is consistent with policy.

Summary

Proposed Waiver: HUD is soliciting comments regarding whether to issue a project waiver of the requirements of section 70914 of BABA included in the IIJA, for multiple products in an infrastructure project funded through the Community Development Block Grant Program (CDBG).

Waiver Type: Nonavailability of domestic products in sufficient and reasonably available quantities or of a satisfactory quality.

Waiver Level and Scope: Project-level waiver for multiple products for a single project. No other project will utilize the waiver.

Proposed Waiver Description: Project-specific nonavailability waiver of BABA requirements to the 2244 N. Buena Vista affordable housing project in Burbank, California for multiple products.

Project Summary: The project is in Burbank, California. The project consists of the construction of four tiny home transitional suites. The project will also include a major renovation of an existing 4,500 sq ft building that will be used for related activities for those living there along with helping other families that are at risk of being homeless. The building renovation includes all major systems, new walls for offices, new landscaping throughout, and a refurbished parking lot.

Length of the Waiver: From the effective date of the final waiver until the completion of the project, which is anticipated to be September 30, 2027.

Items Covered in Waiver: The Burbank City Manager is seeking a waiver for Backflow Preventor Assemblies, Mini Split Systems, Fire Alarm Systems, and Structured Cabling Systems, as described in detail below:

- **Name of Product 1:** Backflow Preventor Assemblies
  - **NAICS:** 332913
  - **PSC:** 4820
  - **Technical Specifications:** Domestic Water: 2-inch reduced pressure zone backflow preventer assembly for domestic potable water service; Fire Water: 3-inch lead-free double check detector assembly, type II; Irrigation

Pre-decisional DRAFT

Water: 1-inch reduced pressure zone backflow preventer assembly for irrigation water service.

- **Name of Product 2:** Mini split system with fasteners and duct work
  - **NAICS:** 333415
  - **PSC:** 4120
  - **Technical Specifications:** 1 mini split system composed of condensing unit fan coil unit; fasteners (screws) approximately 10 boxes; 1 duct system. Split system indoor unit – 9000 BTUH cooling capacity, 12000 BTUH heating capacity, airflow capacity 350 CFM, 208/230V, R-454B refrigerant. Split system outdoor unit – 12000 BTUH cooling capacity, 12000 BTUH heating capacity, minimum efficiency of 29.0 SEER2 / 14.3 EER2 / 10.0 HSPF2, 208/230V, 16.0 A MCA and 20.0 A MOCP, R-454B refrigerant. Manual duct volume control damper / jiffy damper; Duct insulation fasteners.
- **Name of Product 3:** Fire alarm system
  - **NAICS:** 334290
  - **PSC:** 6350
  - **Technical Specifications:** Fire alarm control panel – addressable system 120 VAC input and 24 VDC battery, Fire alarm annunciator, Cellular communicator – compatible with 12-29 VDC, Manual pull station, Dual relay module, Smoke detector, Detector base, Duct detector, Heat detector, Ceiling mount strobe – 24 VDC, Wall mount strobe – 24 VDC, Ceiling mount horn/strobe - 24 VDC
- **Name of Product 4:** Structured Cabling Systems
  - **NAICS:** 335929
  - **PSC:** 5995
  - **Technical Specifications:** CAT6 Jack compatible with standard T568A/T568B wiring schemes and standard modular faceplates, suitable for Gigabit Ethernet, Two-port modular telecommunications faceplate, 24-port CAT6 rack-mounted patch panel, RJ45 connectivity with 19 inch telecommunications racks, 1 Rack Unit height, Horizontal rack-mounted cable management device, compatible with standard 19 inch EIA racks or cabinets, Wall-mounted telecommunications rack.

Description of Efforts Made to Avoid the Need for a Waiver

Both the grantee and HUD made every effort to obtain a domestically produced Backflow Preventor Assemblies, Mini Split Systems, Fire Alarm Systems, and Structured Cabling Systems.

The grantee completed market research between May and July 2026 which consisted of outreach to (3) manufacturers or suppliers for each of the multiple products. None of the manufacturers or suppliers were able to provide BABA-compliant products that met the technical specifications of the project.

HUD conducted an online search of manufacturers and suppliers and did not locate any manufacturers or suppliers that could provide BABA-compliant products.

Anticipated Impact if No Waiver is Issued

Failure to grant a waiver for this project would result in the inability of the developer to construct the housing and renovate the existing structure.

Assessment of Cost Advantage of a Foreign-Sourced Product Under OMB M-24-02, agencies are expected to assess "whether a significant portion of any cost advantage of a foreign-sourced product is the result of the use of dumped steel, iron, or manufactured products or the use of injuriously subsidized steel, iron, or manufactured products" as appropriate before granting a public interest waiver. HUD has concluded that this assessment is not applicable to this waiver as this waiver is not based on the cost of foreign-sourced products.

Description of Award

Agency: United States Department of Housing and Urban Development (HUD)

Common Governmentwide Accounting Classification (CGAC) Code: 086

Title of Project: 2244 N. Buena Vista Affordable Housing Project

Recipient Name: Burbank City Manager

Unique Entity Identifier (UEI): R2ABP7NMRUG7

Federal Award Identification Number (FAIN): B-25-MC-06-0513

Financial Assistance Listing Name: Community Development Block Grant Program (CDBG)

Assistance Listing Number: 14.218

Federal Financial Assistance Funding Amount: $3,549,816.00

Total Estimated Infrastructure Expenditures: $5,982,589.00

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