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 Tendick Street Affordable Housing Project for HVAC Equipment (HUD Waiver #W-0000235)

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 single project 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-0000235 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.

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 HVAC equipment in an infrastructure project funded through the Housing Trust Fund (HTF).

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 a single product for a single project. No other project will utilize the waiver.

Proposed Waiver Description: Project-specific nonavailability waiver of BABA requirements to the Tendick Street affordable housing project in Jacksonville, Illinois for HVAC equipment.

Project Summary: The project is in Jacksonville, Illinois. Partnership will use HTF Funds for a portion of the costs to develop Tendick Street Apartments, an affordable housing development for families to be located at 1140 Tendick Street, Jacksonville, IL, 62650.

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, 2028.

Items Covered in Waiver: The Illinois Housing Development Authority is seeking a waiver for HVAC equipment, as described in detail below:

HVAC Equipment			
Item	**PSC**	**NAICS**	**Technical Specification**
Air Handler/ 2 Ton	4130	333415	Indoor air handling unit with a nominal cooling capacity of 2 tons (24,000 BTU/hr), designed for use with compatible heat pump or split-system HVAC equipment.

Pre-decisional DRAFT

HVAC Equipment			
Item	**PSC**	**NAICS**	**Technical Specification**
Heat Kit/ 6KW	4130	333415	Electric resistance heat kit rated at 6 kilowatts, designed for installation within a compatible air handler to provide supplemental or emergency heating. Includes integrated electric heating elements, high-temperature safety limits, sequencers or relays for staged operation, and factory-installed wiring compatible with the associated HVAC system.
Heat Pump/ 1.5 Ton, 15.5 SEER	4130	333415	Split-system air-source heat pump with a nominal capacity of 1.5 tons (18,000 BTU/hr) and a minimum Seasonal Energy Efficiency Ratio (SEER) of 15.5. Provides both heating and cooling operation using environmentally acceptable refrigerant. Features a high-efficiency compressor, outdoor weather-resistant cabinet, factory-installed coil, and compatibility with a matching indoor air handler and electric heat kit. Designed for residential applications and compliant with applicable energy efficiency standards.

Description of Efforts Made to Avoid the Need for a Waiver

The grantee conducted market research in May-June 2026.

The grantee's team conducted interviews with three suppliers or manufacturers within each product category and documented its due diligence findings as follows:

The project team reached out to three major manufacturers of HVAC equipment. Each reported that, while they could comply with Energy Star requirements, they were unable to satisfy the 55% component cost threshold specified by the BABA regulations.

HUD conducted an online search of five manufacturers and suppliers. Two manufacturers offer some BABA-compliant heat pumps, but they do not meet the technical specifications.

Anticipated Impact if No Waiver is Issued

Failure to grant a waiver for this project would result in the inability of the developer to complete the project.

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: Tendick Street Affordable Housing Project

Recipient Name: Illinois Housing Development Authority

Unique Entity Identifier (UEI): GA8G WCRX UDL3

Federal Award Identification Number (FAIN): F24-SG170100

Financial Assistance Listing Name: Housing trust Fund (HTF)

Assistance Listing Number: 14.275

Federal Financial Assistance Funding Amount: $3,161,018.00

Total Estimated Infrastructure Expenditures: $8,645,963.00

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