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 Don Persson Renton Senior Activity Center for Split-System Air-Conditioners and an Electric Duct Heating System (HUD Waiver #W-0000393)

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 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-0000393 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 split-system air-conditioners and an electric duct heating system in an infrastructure project funded through the Community Development Block Grant (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 Don Persson Renton Senior Activity Center project in Renton, Washington for split-system air-conditioners and an electric duct heating system.

Project Summary: The project is in Renton, Washington. The project consists of the evaluation, renovation, and replacement of the HVAC systems, roof, exterior siding, windows, interior and exterior paint finishes, and structural components as part of the remodel of the Don Persson Renton Senior Activity Center located at 211 Burnett Ave N, Renton, Washington.

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

Items Covered in Waiver: King County is seeking a waiver for split-system air-conditioners and an electric duct heating system, as described in detail below:

- **Name of Product 1:** Split-System Air-Conditioners
  - **NAICS:** 333415
  - **PSC:** 4130
  - **Technical Specifications:** Single-zone HVAC system with variable capacity in response to varying cooling loads. System consists of outdoor unit, indoor unit, piping, controls, and electrical power. System and equipment performance certified according to AHRI 210/240-2024 and AHRI 1380 and in compliance with UL 60335-2-40. Standard Operating Range: Cool Mode: 23°F to 115°F DB. Heat Mode: -4°F to 59°F WB.

Refrigerant: R-454b. Pre-charged refrigerant supplied within unit for up to 100 feet line length. Factory-assembled and tested complete unit module designed for use in systems with all cooling demands. Positive-displacement, direct-drive and hermetically sealed rotary or scroll compressor with inverter drive.

- **Name of Product 2:** Electric Duct Heating System
  - **NAICS:** 333415
  - **PSC:** 4520
  - **Technical Specifications:** Electric heating capacity up to 46.0 kW, with full SCR (solid state modulating control), airflow interlock switch, 24V control transformer, disconnect and duct mounted thermostat. Open-coil, slip-in configuration, UL Listed for zero clearance and meeting all NEC requirements. Built-in components including safety interlocking disconnect switch, disconnecting break magnetic contactors, transformer with primary fusing per UL, pressure-type airflow switch set at 0.05" WC, supplementary circuit fuses per NEC, separate load and control terminal blocks to accept conductors. Heavy gauge galvanized steel frame with galvanized steel brackets. Terminal box spot welded construction with solid, hinged cover, totally enclosed, without louvers or grilles per the UL Standard. All safety devices serviceable through the terminal box without removing the heater from the duct.

Description of Efforts Made to Avoid the Need for a Waiver

Both the grantee and HUD made every effort to obtain domestically produced split-system air-conditioners and an electric duct heating system.

The grantee completed market research between April and July 2026 which consisted of outreach to five (5) manufacturers or suppliers for the products listed above. 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 significant delays and increased costs and could affect the mechanical system's ability to meet the technical specifications and performance criteria required for 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.

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Description of Award

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

Common Governmentwide Accounting Classification (CGAC) Code: 086

Title of Project: Don Persson Renton Senior Activity Center

Recipient Name: King County

Unique Entity Identifier (UEI): TS2LXAN2W8A8

Federal Award Identification Number (FAIN): B-25-UC-530001

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

Assistance Listing Number: 14.218

Federal Financial Assistance Funding Amount: $199,826

Total Estimated Infrastructure Expenditures: $3,446,194

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