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 MacGregor Village Apartments for Bath Accessories, Mailboxes, HVAC, Hardware, Plumbing Fixtures, and Lighting Fixtures (HUD Waiver #W-0000398)

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-0000398 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 bath accessories, mailboxes, HVAC, hardware, plumbing fixtures, and lighting fixtures in an infrastructure project funded through the HOME Investment Partnerships Program (HOME).

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 MacGregor Village Apartments rehabilitation project in Cary, North Carolina for bath accessories, mailboxes, HVAC, hardware, plumbing fixtures, and lighting fixtures.

Project Summary: The project is in Cary, North Carolina. The project consists of the rehabilitation of the MacGregor Village Apartments, including life-safety improvements, site accessibility, major building systems, and replacement of cabinetry, flooring, windows, siding, roofs, systems, and fixtures. The project is located at 107 Edinburgh S Dr, Cary, North Carolina.

Length of the Waiver: From the effective date of the final waiver until the completion of the project, which is anticipated to be November 30, 2028.

Items Covered in Waiver: The North Carolina Housing Finance Agency is seeking a waiver for bath accessories, mailboxes, HVAC, hardware, plumbing fixtures, and lighting fixtures, as described in detail below:

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Bath Accessories and Mailbox Assemblies

Name of Product	Qty	NAICS	PSC	Technical Specifications	Total Cost: $ 19,149
Towel Bar	100	332999	5340	18”	
Paper Holder	101	332999	5340	BC2-41 Campbell	
Grab Bar	19	332999	5340	8”, 36", and 42"	
Front Loading Mailbox	8	332999	5340	#4CADD-10	
Front Loading Mailbox	1	332999	5340	#4CADS-04	
Shower Rods and Curtain	5	332999	5340	BSR-521	
Recessed Medicine Cabinets	100	332999	5340	#9400APR1 S.S. Frame 14”x18”	

HVAC

Name of Product	Qty	NAICS	PSC	Technical Specifications	Total Cost $43,000
Vertical Thru-wall Air Handlers	60	333415	4120	Compatible with A2L Refrigerant	

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Hardware/Locks

Name of Product	Qty	NAICS	PSC	Technical Specifications	Total Cost $40,895
Single cylinder deadbolts	240	332510	5340	Door hardware suitable for residential dwelling units in an R2 multi-family residential building. Deadbolts to be ANSI Grade 2.	
Tubular locksets	948	332510	5340	Mechanical locks are to be tubular type and must be compliant with Federal housing laws and guidelines. Tubular locksets to be ANSI Grade 1. The finish is to be satin nickel.	
Rim-type exit device with surface close	2	332510	5340	Rim exit devices to be ANSI grade 1.	

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Plumbing Fixtures

Name of Product	Qty	NAICS	PSC	Technical Specifications	Total Cost $97,955
Toilets	101	238220	4510	Plumbing fittings and fixtures appropriate for a R2 use-group multi-family building. Fixtures must be water conserving and WaterSense. All components must comply with the International Plumbing Code (IPC 2021)	
Toilet Seats	101	238220	4510	Plumbing fittings and fixtures appropriate for a R2 use-group multi-family building. Fixtures must be water conserving and WaterSense. All components must comply with the International Plumbing Code (IPC 2021)	
Fixture Supply Stop Valves	445	238220	4510	Plumbing fittings and fixtures appropriate for a R2 use-group multi-family	

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Name of Product	Qty	NAICS	PSC	Technical Specifications	Total Cost $97,955
				building. Fixtures must be water conserving and WaterSense. All components must comply with the International Plumbing Code (IPC 2021)	
Lavatory Faucets	101	238220	4510	Plumbing fittings and fixtures appropriate for a R2 use-group multi-family building. Fixtures must be water conserving and WaterSense. All components must comply with the International Plumbing Code (IPC 2021)	
Kitchen Faucets	81	238220	4510	Plumbing fittings and fixtures appropriate for a R2 use-group multi-family building. Fixtures must be water conserving and WaterSense. All components must comply	

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Name of Product	Qty	NAICS	PSC	Technical Specifications	Total Cost $97,955
				with the International Plumbing Code (IPC 2021)	
Water Heaters	58	238220	4510	Plumbing fittings and fixtures appropriate for a R2 use-group multi-family building. Fixtures must be water conserving and WaterSense. All components must comply with the International Plumbing Code (IPC 2021)	

Light Fixtures

Name of Product	Qty	NAICS	PSC	Technical Specifications	Total Cost $ 127,453
CS120W	1133	335931	5930	Single-pole commercial switch; 20A, 120-277VAC; specification grade; white nylon toggle; side wired; silver-alloy contacts; UL listed, CSA certified, Fed. Spec. W-S-896.	
CS320W	2	335931	5930	Three-way commercial switch; 20A, 120-277VAC; specification grade; white nylon	

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Name of Product	Qty	NAICS	PSC	Technical Specifications	Total Cost $ 127,453
				toggle; side wired; silver-alloy contacts; UL listed, CSA certified, Fed. Spec. W-S-896.	
CR20WHITR	1596	335931	5935	Tamper-resistant duplex receptacle; 20A, 125V, 2-pole/3-wire grounding; white; smooth face; side wired; NEMA 5-20R configuration; UL 498, CSA C22.2 No. 42, and NEMA WD-6 compliant.	
GRT20W	578	335931	5935	Self-test GFCI receptacle; 20A, 125V; tamper-resistant; white; back and side wired; 4-6 mA trip level; UL/CSA listed; ADA and NEMA WD-6 compliant.	
GFTW20W	37	335931	5935	Weather-resistant self-test GFCI receptacle; 20A, 125V; tamper- and weather-resistant; white; back and side wired; 4-6 mA trip level; UL/CSA listed; ADA and NEMA WD-6 compliant.	
62-1254	97	335132	6210	Low-profile linear LED fixture; 12 x 48 inches; 45W; 3,780 lumens; 4000K; 90+ CRI; 120/277V; white aluminum housing; integrated LED; damp-location cETLus listed;	

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Name of Product	Qty	NAICS	PSC	Technical Specifications	Total Cost $ 127,453
				phase-cut dimming at 120V.	
62-897	102	335131	6210	LED vanity fixture; 36-inch nominal length; 39W; 3,120 lumens; 3000K; 90+ CRI; 120V; brushed-nickel finish with gray marbleized acrylic panels; damp-location cETLus listed; dimmable.	
JSF Series	580	335131	6210	Surface-mount LED downlights; J-box-mounted round downlights in 5-, 7-, 11-, and 13-inch sizes; 700-1,800 lumens; 2700K/3000K/3500K/4000K options; 90 CRI minimum; 120V or 120-277V; dimming options; wet-location/closet-rated configurations; 50,000-hour rated life.	
S4-TUN-WH	297	335131	6210	Four-inch low-profile disk downlight; 12W, 120V; 5-CCT selectable (2700K-5000K); 750-850 lumens; 90+ CRI; white aluminum body/polycarbonate diffuser; wet-location and closet rated; ETL listed; dimmable.	
Slimpak Pro	106	335132	6210	Selectable LED wall lights; Commercial/industrial wall luminaires;	

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Name of Product	Qty	NAICS	PSC	Technical Specifications	Total Cost $ 127,453
				selectable 1,000-4,000 lumens and 4000K/4500K/5000K configurations; fixed 3000K options; 120-277V with 0-10V dimming; wet-location UL/cUL certification; -40C to 40C operating range.	
OLF 2RH	20	335132	6210	Outdoor LED motion security floodlight; Two round heads; 25W, 2,159 lumens, 4000K; 120V; PIR motion detection with photocell; cast-aluminum housing; wet-location UL certification; bronze or white finish.	
EM16-WL	11	335132	6210	Wet-location emergency lighting unit; Dual 120/277V; two 7.2W MR16 halogen heads standard, with LED options; gasketed thermoplastic housing/polycarbonate cover; rechargeable 6V sealed lead-acid battery; minimum 90-minute emergency operation; UL 924 wet-location listed.	
WF2060U	81	335132	5930	Fusible air-conditioning disconnect; 60A, single-phase 120/240V, 10HP; galvanized-steel NEMA 3R outdoor enclosure;	

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Name of Product	Qty	NAICS	PSC	Technical Specifications	Total Cost $ 127,453
				padlock provision. Submittal identifies country of origin as Mexico and United States.	

Description of Efforts Made to Avoid the Need for a Waiver

Both the grantee and HUD made every effort to obtain domestically produced bath accessories, mailboxes, HVAC, hardware, plumbing fixtures, and lighting fixtures.

The grantee completed market research between May and August 2026 which consisted of outreach to manufacturers, suppliers, and the NCMEP/NIST MEP National Network 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 critical rehabilitation scope being omitted, continued deterioration of the affordable housing property, and the inability to complete planned system and fixture upgrades needed to maintain long-term habitability and accessibility.

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: MacGregor Village Apartments

Recipient Name: North Carolina Housing Finance Agency

Unique Entity Identifier (UEI): WF3FKR4875L4

Federal Award Identification Number (FAIN): M-24-SG-37-0100

Financial Assistance Listing Name: HOME Investment Partnerships Program (HOME)

Assistance Listing Number: 14.239

Federal Financial Assistance Funding Amount: $10,667,000

Total Estimated Infrastructure Expenditures: $11,519,444

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