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 Kings Daughters Court Rehabilitation project for Door Hardware, Trash Compactor, Plumbing, HVAC, Electrical, Lighting, and Fire Alarm Products (HUD Waiver #W-0000461)

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-0000461 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.

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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 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 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 Kings Daughters Court Rehabilitation project in Martinsburg, West Virginia for multiple products.

Project Summary: The project is in Martinsburg, West Virginia. The project consists of the rehabilitation of an affordable housing property. The project will provide necessary updates and repairs to a property containing eighty (80) apartments for seniors earning at or below 60% of the area median income.

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, 2028.

Items Covered in Waiver: The West Virginia Housing Development Fund is seeking a waiver for multiple products as described in detail below:

Name of Product Category 1: *Door Hardware*

Name of Product	NAICS	PSC	Technical Specifications
Prehung lever sets	332510	5340	Grade 2 or 3 tubular lockset with ADA lever handle, zinc die-cast construction and adjustable latch backset.

Name of Product Category 2: *Interior Trash Compactor*

Name of Product	NAICS	PSC	Technical Specifications
Stationary trash compactor	333318	4540	Indoor electric-hydraulic stationary compactor; NEMA 4 controls; 2–3 cubic-yard capacity and high compaction force.

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Name of Product Category 3: *Plumbing Fixtures and Faucets*

Name of Product	NAICS	PSC	Technical Specifications
Apartment rear-outlet toilets	332913	4510	Vitreous-china elongated, rear-discharge water closets, ADA height, 1.28 or 1.6 GPF.
Common-area rear-outlet toilets	332913	4510	Vitreous-china elongated, rear-discharge water closets, ADA height, 1.28 or 1.6 GPF.
Pedestal lavatory sinks	332913	4510	Vitreous-china pedestal lavatories with overflow and predrilled faucet holes.
Apartment lavatory faucets	332913	4510	Lead-free brass, ceramic-disc cartridge, 1.2-GPM aerator and chrome or nickel finish.
Common-area lavatory faucets	332913	4510	Lead-free brass, ceramic-disc cartridge, 1.2-GPM aerator and chrome or nickel finish.
Kitchen faucets	332913	4510	Single- or two-handle lead-free faucets; ceramic-disc valve, optional pull-out sprayer, 1.5–1.8 GPM.
Shower mixing valves	332913	4510	Pressure-balancing or thermostatic cast-brass mixing valves with integral stops; ASSE 1016.
Shower/tub trim kits	332913	4510	ADA lever, metal trim plate, hand shower, 24-inch slide bar and 60-inch flexible hose.
Kitchen sinks	332913	4510	Type 304 stainless-steel 18- or 20-gauge sinks, under-mount or drop-in, sound-deadening pads.

Name of Product Category 4: *Plumbing Shutoff Valves*

Name of Product	NAICS	PSC	Technical Specifications
Stack water-shutoff ball valves	332911	4820	Lead-free, full-port forged-brass ball valves with blowout-proof stems, PTFE seats, threaded or sweat connection.
Fixture shutoff valves	332911	4820	Quarter-turn angle/straight stops, lead-free brass, compression/push-to-connect inlets, chrome finish.

Name of Product Category 5: *PTAC Systems and Controls*

Name of Product	NAICS	PSC	Technical Specifications
PTAC units	333415	4120	Through-wall PTAC heat-pump or electric-heat units; 42 × 16-inch chassis, 208/230 V; 12,000 BTU and 7,000 BTU capacities as clarified by Empire on October 16.
PTAC wall sleeves	333415	4120	Weather-resistant insulated galvanized-steel or polymer sleeves for standard 42 × 16-inch PTAC wall openings.
PTAC exterior grilles	333415	4120	Stamped or extruded aluminum louvered grilles compatible with specified PTAC sleeves.
PTAC thermostats	333415	4120	24-volt programmable or nonprogrammable wall controls compatible with the selected PTAC heat pumps.
Common-area split HVAC units	333415	4120	High-efficiency split heat-pump systems, 15+ SEER2, inverter-driven variable-speed compressors, 208/230 V.

Name of Product Category 6: *Exhaust and Transfer Fans*

Name of Product	NAICS	PSC	Technical Specifications
Bathroom exhaust fans	333413	4140	HVI-certified low-sone ventilation fans, 50–80 CFM; damper and galvanized housing.
Kitchen exhaust fans	333413	4140	Continuous-duty ductable exhaust fans, at least 100 CFM, with grease filter.
In-wall transfer fans	333413	4140	Through-wall room-to-room transfer fans, approximately 50–70 CFM, adjustable housings and speed controls.

Name of Product Category 7: *Electrical Distribution Equipment*

Name of Product	NAICS	PSC	Technical Specifications
Corridor electrical panelboard	335313	6110	Main-lug or main-breaker load center; NEMA 1; 120/240 V or 208Y/120 V with copper/aluminum bus.
Corridor panelboard breakers	335313	6110	Thermal-magnetic molded-case circuit breakers, plug-in or bolt-on, 10/22-kA interrupting ratings.
Apartment circuit breakers	335313	6110	UL-listed 15/20-amp single- or double-pole breakers, with AFCI/GFCI options.

Name of Product Category 8: *Receptacles and Switches*

Name of Product	NAICS	PSC	Technical Specifications
Corridor switches and receptacles	335931	5930	Commercial-grade 15/20-amp grounding-type toggle switches and receptacles, UL listed.
Apartment GFCI receptacles	335931	5930	15-amp 120-V, self-testing tamper-resistant GFCI receptacles, LED indicator, NEMA 5-15R.

Name of Product Category 9: *Lighting and Exit Signs*

Name of Product	NAICS	PSC	Technical Specifications
Corridor lighting	335139	6210	LED surface wrap or recessed troffer; 3500–4000 K, ≥80 CRI, 120–277-V driver.
Common-area lighting	335139	6210	Dimmable architectural LED surface or recessed downlights, 3000–4000 K, ≥80 CRI.
Apartment interior lighting	335139	6210	Dimmable LED flush-mount ceilings/vanity fixtures, acrylic diffuser, 3000 K, 120 V.
Exit signs	335139	6210	LED illuminated red/green thermoplastic exit signs, universal mount, 90-minute Ni-Cd backup.
Exterior wall sconces	335139	6210	Wet-location die-cast aluminum LED architectural/cylinder wall sconces.
Exterior wall packs	335139	6210	IP65 LED wall packs with die-cast housing; 120–277 V.
Site lighting	335139	6210	Pole-mounted LED area lights; Type III/IV/V distribution, 4000–5000 K and IP66 rating.

Name of Product Category 10: *Fire Alarm and Detection Devices*

Name of Product	NAICS	PSC	Technical Specifications
Smoke/CO alarms and strobes	334290	6350	120-V hardwired combination photoelectric smoke/CO alarm; sealed battery backup, interconnection and optional ADA strobe.

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Description of Efforts Made to Avoid the Need for a Waiver

Both the grantee and HUD made every effort to obtain a domestically produced Door Hardware, Trash Compactor, Plumbing, HVAC, Electrical, Lighting, and Fire Alarm Products.

The grantee completed market research between July 24, 2026, through September 4, 2026, which consisted of outreach through the MEPNN Supplier Scouting Program for 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 install the required Door Hardware, Trash Compactor, Plumbing, HVAC, Electrical, Lighting, and Fire Alarm Products.

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: Kings Daughters Court Rehabilitation project

Recipient Name: West Virginia Housing Development Fund

Unique Entity Identifier (UEI): SJM5U3BMLSV1

Federal Award Identification Number (FAIN): F-26-SG540100

Financial Assistance Listing Name: Housing Trust Fund (HTF)

Assistance Listing Number: 14.275

Federal Financial Assistance Funding Amount: $1,300,000

Total Estimated Infrastructure Expenditures: $18,067,786