

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBJECT: Final Project-Specific Nonavailability Waiver of Build America Buy America Act (BABA) Requirements to the Bretz Court Senior Affordable Housing Project for Heat Pumps (HUD Waiver #W-0000295)

Introduction

The U.S. Department of Housing and Urban Development (HUD) is issuing a final BABA waiver to an assistance recipient based on nonavailability of a single product for a single project.

Solicitation of Public Comment

The proposed waiver was posted on HUD's public facing webpage and a notice of the proposed waiver was posted to the Made in America website from August 17, 2026, to September 1, 2026, thus satisfying the requirement to publish any BABA project waiver and provide the public with fifteen (15) days to submit comments. HUD did not receive any public comments on this waiver during the public comment period. Therefore, no changes were made to the proposed waiver, except to replace references to the “proposed waiver” with references to the “final waiver.”

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

Final Waiver: HUD is issuing a project waiver of the requirements of section 70914 of BABA included in the IIJA, for heat pumps 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.

Waiver Description: Project-specific nonavailability waiver of BABA requirements to the Bretz Court Senior affordable housing project in Newport, Pennsylvania for heat pumps.

Project Summary: The project is in Newport, Pennsylvania. Bretz Court Senior will be a 45-unit project consisting of 37 one-bedroom units and 8 two-bedroom units. The project is located in Newport, Pennsylvania and is funded utilizing the Low-Income Housing Tax Credit program as administered by the Pennsylvania Housing Finance Agency (PHFA).

Length of the Waiver: From September 9, 2026, until the completion of the project, which is anticipated to be May 31, 2028.

Items Covered in Waiver: The Pennsylvania Department of Community & Economic Development is being issued a waiver for heat pumps, as described in detail below:

- **Name of Product 1:** Compact Mini-Split Crossover Heat Pumps
 - **NAICS:** 333415 Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment Manufacturing
 - **PSC:** 4120 Air Conditioning Equipment
 - **Technical Specifications:**
 - Systems Serving Residential Units (AH/HP1 through AH/HP2):
 - Minimum SEER2 = 18.2, minimum HSPF2 = 10.1
 - Cooling capacity at 91°F ambient (18.17 mbh total, 12.92 mbh sensible AH-1 & 2), (18.86 mbh total, 14.13 mbh sensible AH-3x)
 - Heating capacity at 47°F/17°F (19.36 / 17.19 mbh AH-1,2) (20.09/14.89 mbh AH-3).
 - Systems Serving Common Area Spaces (AH/HP-3 thru AH/HP7):
 - Minimum SEER2 = 18.8, minimum HSPF2 = 10
 - Cooling capacity at 91°F (27.21 mbh total, 22.28 mbh sensible)
 - Heating capacity at 47°F/17°F (29.52 / 23.78 mbh)
 - All units are UL listed, Energy Star rated, indoor fan coil units have a leakage rate of < 2% of cfm listed.
 - The inverter driven compressor provides five (5) stages of heating/cooling. On a call for heat/cool the compressor starts at low speed and then ramps as needed to satisfy thermostat setpoint. The low speed is used for dehumidification of the space.

Description of Efforts Made to Avoid the Need for a Waiver

Both the grantee and HUD made every effort to obtain domestically produced heat pumps.

Project engineer of record reached out to contacts at the 3 largest manufacturers of HVAC equipment in the United States in March 2026.

HUD conducted an internet search of possible alternatives and located three manufacturers that produced possible BABA-compliant alternatives. Two of the manufacturers' products do not meet

the technical specifications for this project, as they are either too large or for commercial use. The third manufacturer's products were determined to not be BABA-compliant upon further research by the grantee.

Anticipated Impact if No Waiver is Issued

Failure to grant a waiver for this project would result in the inability 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: Bretz Court Senior Affordable Housing Project

Recipient Name: Pennsylvania Department of Economic & Community Development

Unique Entity Identifier (UEI): D8LNFVK82JC6

Federal Award Identification Number (FAIN): F-24-SG-42-0100

Financial Assistance Listing Name: Housing Trust Fund (HTF)

Assistance Listing Number: 14.275

Federal Financial Assistance Funding Amount: \$917,651.00

Total Estimated Infrastructure Expenditures: \$19,056,937.00