

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBJECT: Final Project-Specific Nonavailability Waiver of Build America Buy America Act (BABA) Requirements to the Judith Ann, Maxine, and Velenna Jo Affordable Housing Projects for HVAC Materials, LED Light Fixtures, and Fire Alarm System (HUD Waiver #W-0000150)

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 multiple products for multiple projects.

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 11 to August 26, 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 soliciting comments regarding whether to issue a project waiver of the requirements of section 70914 of BABA included in the IIJA, for HVAC materials and LED light fixtures in three infrastructure projects 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 multiple projects. No other projects will utilize the waiver.

Waiver Description: Project-specific nonavailability waiver of BABA requirements to the Judith Ann, Maxine, and Velenna Jo affordable housing projects in White Oak, Beckley, and Keyser, West Virginia, respectively, for HVAC materials and LED light fixtures.

Project Summary: The projects consist of the rehabilitation of multi-family residential rental housing. Velenna Jo Apartments are located at 1555 Terri St., Keyser, West Virginia, and consist of 32 units. Judith Ann Apartments are located at 1 Judith Ann Dr., White Oak, West Virginia, and consist of 24 units. Maxine Apartments are located at 1100 Bolton Dr., Beckley, West Virginia, and consist of 32 units.

Length of the Waiver: From September 9, 2026, until the completion of the project, which is anticipated to be September 30, 2028.

Items Covered in Waiver: The West Virginia Housing Development Fund is being issued a waiver for HVAC materials and LED light fixtures, as described in detail below:

- **Name of Product 1:** Flush mount fixture
 - **NAICS:** 335132 - Ceiling lighting fixtures, commercial, industrial, and institutional, manufacturing
 - **PSC:** 6210 - Indoor and Outdoor Electric Lighting Fixtures
 - **Technical Specifications:** Fixture shall provide 1,600 lumens minimum with 90 CRI and a rated life of 50,000 hours. Unit shall operate on 120V and be fully dimmable. Suitable for sloped ceiling installation and rated for operating temperatures between -20°C (-4°F) and +55°C (+131°F). Fixture dimensions shall be approximately 30"W x 1.75"H x 2.25" extension with integrated 20W LED source.
- **Name of Product 2:** Linear LED Fixture
 - **NAICS:** 335132 - Ceiling lighting fixtures, commercial, industrial, and institutional, manufacturing
 - **PSC:** 6210 - Indoor and Outdoor Electric Lighting Fixtures
 - **Technical Specifications:** Linear LED fixture with steel construction and polycarbonate lens designed for interior applications. Fixture shall operate on 120V-277V and provide warm white to natural light color temperature options with minimum 90+ CRI. Unit shall include integrated surge protection rated at 2.5KV and have a minimum rated life of 50,000 hours. Fixture shall be non-dimmable and suitable for operating temperatures from -20°C (-4°F) to +40°C (+104°F).
- **Name of Product 3:** LED Under Cabinet Fixture

- **NAICS:** 335132 - Ceiling lighting fixtures, commercial, industrial, and institutional, manufacturing
- **PSC:** 6210 - Indoor and Outdoor Electric Lighting Fixtures
- **Technical Specifications:** LED under cabinet fixture constructed of aluminum and polycarbonate with rectangular profile. Fixture shall provide lumen output between 859 and 955 lumens with minimum 90+ CRI and rated life of 40,000 hours. Unit shall operate on 120V and be dimmable. Fixture shall support up to 36 connectable units and be rated for operating temperatures between -20°C (-4°F) and +40°C (+104°F). Fixture shall not be suitable for sloped ceiling installation.

- **Name of Product 4:** Vent fans with LED lights
 - **NAICS:** 335132 - Ceiling lighting fixtures, commercial, industrial, and institutional, manufacturing
 - **PSC:** 6210 - Indoor and Outdoor Electric Lighting Fixtures
 - **Technical Specifications:** Fan/light combination unit shall be constructed with corrosion-resistant galvanized steel housing and equipped with a four-point mounting system for secure installation. Unit shall be ducted to a roof or wall termination using 4-inch round ductwork. Blower assembly shall be removable and include a centrifugal-type blower wheel with a permanently lubricated motor designed for continuous operation. A non-metallic damper/duct connector shall be provided as part of the assembly. Lighting component shall consist of an 11-watt LED module providing a minimum 800 lumen output with a 3000K color temperature. Air performance shall meet or exceed airflow requirements and shall not exceed sound levels as specified in HVI-certified performance data included in the project specifications. All airflow and sound ratings shall be independently certified by the Home Ventilating Institute (HVI). Unit shall be U.L. Listed for installation in insulated ceilings (Type I.C.) and approved for use over bathtubs and showers when installed on a GFCI-protected branch circuit.

- **Name of Product 5:** Site lighting poles with LED light fixtures
 - **NAICS:** 335132 - Ceiling lighting fixtures, commercial, industrial, and institutional, manufacturing
 - **PSC:** 6210 - Indoor and Outdoor Electric Lighting Fixtures
 - **Technical Specifications:** Unit shall operate on 120–277V, 50/60Hz and provide LED performance equivalent to 150W or 250W metal halide lighting. System shall have an estimated rated life of 50,000 hours and include integral surge protection. LED performance shall deliver 4000K correlated color temperature (CCT) with a minimum 80 CRI. Optical distribution shall be available in Type III or Type V photometric patterns as required. Fixture shall carry a 5-year manufacturer warranty and be ETL listed for safety compliance.

- **Name of Product 6:** Smoke detectors (indicator lights within are LED)
 - **NAICS:** 335132 - Ceiling lighting fixtures, commercial, industrial, and institutional, manufacturing
 - **PSC:** 6210 - Indoor and Outdoor Electric Lighting Fixtures

- **Technical Specifications:** 120V AC 60Hz single and/or multiple station photoelectric smoke alarm with integrated 177 candela strobe light
- **Name of Product 7:** Smoke strobes
 - **NAICS:** 335132 - Ceiling lighting fixtures, commercial, industrial, and institutional, manufacturing
 - **PSC:** 6210 - Indoor and Outdoor Electric Lighting Fixtures
 - **Technical Specifications:** Photoelectric smoke alarm designed for 120V AC, 60 Hz operation with dual AA battery backup for continued protection during power outages. Unit shall provide an audible alarm rated at 85 dB at 10 feet and operate within a temperature range of 40°F (4.4°C) to 100°F (37.8°C) and up to 95% non-condensing relative humidity. Alarm shall include AC wiring with plug-in quick connector for installation and shall be capable of interconnection with up to 24 compatible devices. Unit dimensions shall be approximately 5"W x 2"D x 5"H and weigh approximately 0.86 lbs.
- **Name of Product 8:** Ceiling Fan
 - **NAICS:** 335132 - Ceiling lighting fixtures, commercial, industrial, and institutional, manufacturing
 - **PSC:** 6210 - Indoor and Outdoor Electric Lighting Fixtures
 - **Technical Specifications:** Standard specs include integrated dimmable LED lighting, variable blade pitches, and airflow ratings between 3,500 and 6,500 CFM
- **Name of Product 9:** HVAC - Heat Pump - Outdoor Condensers and Indoor Air Handler
 - **NAICS:** 333415 - Air-conditioning and warm air heating combination units manufacturing
 - **PSC:** 4120 - Air-conditioning Equipment
 - **Technical Specifications:** Fully inverter-driven compressor; 20 SEER rating; R32 refrigerant; 2-3 ton

Description of Efforts Made to Avoid the Need for a Waiver

The grantee conducted market research in September 2025.

LED Light Fixtures

Outreach efforts consisted of both email and telephone communications with a broad range of manufacturers and distributors. The contractor contacted six companies regarding the availability of BABA-compliant LED light fixtures that met the technical specifications of these projects, including Energy Star performance requirements.

Based on responses from manufacturers and distributors, as well as review of product specifications and manufacturing information, no LED fixtures were identified that satisfy both BABA compliance and the technical specifications of these projects.

Documentation supporting these efforts has been provided and includes copies of email correspondence requesting BABA compliance information from manufacturers. In addition, the LED light fixtures subcontractor outreach was conducted via telephone to further verify product availability and compliance.

Similarly, HUD conducted an online search of an additional seven manufacturers and suppliers such as and did not locate any manufacturers or suppliers that could provide BABA-compliant products that meet the technical specifications of these projects.

HVAC

Standard HVAC suppliers were contacted, and they in turn reached out to additional manufacturers and distributors within their respective supply networks to determine whether commonly specified residential HVAC equipment could meet Build America, Buy America (BABA) requirements and the technical specifications of these projects. Based on the responses received and the attached supporting documentation, equipment manufactured by six consulted manufacturers do not currently meet BABA requirements for this project. Suppliers indicated that while certain components may be domestically sourced, the final manufactured products and components do not satisfy the applicable domestic content thresholds or manufacturing requirements necessary for BABA compliance.

Similarly, HUD conducted an online search of three additional manufacturers and suppliers and did not locate any manufacturers or suppliers that could provide BABA-compliant products that meet the technical specifications of these projects.

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 these projects.

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: Velenna Jo, Judith Ann, and Maxine Affordable Housing Projects

Recipient Name: West Virginia Housing Development Fund

Unique Entity Identifier (UEI): SJM5U3BMLSV1

Federal Award Identification Number (FAIN): F25SG540100

Financial Assistance Listing Name: Housing Trust Fund (HTF)

Assistance Listing Number: 14.275

Federal Financial Assistance Funding Amount: \$2,265,000 (\$770,000 Judith Ann Apartments + \$780,000 Velenna Jo Apartments + \$715,000 Maxine Apartments)

Total Estimated Infrastructure Expenditures: \$16,956,215