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## 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 Stables Affordable Housing Project for Carpentry Hardware, Elevator, Lighting and Electrical, Fire Suppression System, and Plumbing Items (HUD Waiver #W-0000099)**

#### **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](mailto:BuildAmericaBuyAmerica@hud.gov). Please reference HUD Waiver #W-0000099 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

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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 carpentry hardware in an infrastructure project funded through the Housing Trust Fund (HTF) and 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 Stables affordable housing project in Aurora, Colorado for a drinking fountain.

Project Summary: The project is located at 10850 E. Exposition Ave. in Aurora, Colorado. The project consists of the construction of 85 affordable housing units in a single multifamily residential building.

Length of the Waiver: From the effective date of the final waiver until the completion of the project, which is expected around September 30, 2027.

Items Covered in Waiver: The Colorado Department of Local Affairs and Arapahoe County are seeking a waiver for carpentry hardware, as described in detail below:

- Carpentry Hardware
  - Category: Iron or Steel Products
  - Cost: \$20,000.00
  - Quantity:
    - 500 Connector Hardware
    - 200 Lateral Tie Plates (LTP4)
    - 150 Top Mount Joist Hangers
    - 300 L 4x4 Plates
    - 500 IUS Hangers
    - 150 Lateral Tie Plates
  - PSC: 5340 – Hardware, Commercial

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- NAICS: 238130 – Building framing (except structural steel)
- Country of Origin: United States
- Technical Specifications:
  - ASTM A653/A653M – Standard specification for steel sheet, zinc-coated (galvanized) or zinc-iron alloy-coated (galvannealed) by the hot-dip process
  - AWPA U1 – use category system: user specification for treated wood
  - PS 1 – structural plywood
  - PS20 – American Softwood Lumber Standard
- Elevators
  - Category: Manufactured Product
  - Cost: \$170,000.00
  - Quantity: 2
  - PSC: 3960 – Freight Passenger Elevators
  - NAICS: 332921 – Elevators, passenger and freight, manufacturing
  - Country of Origin: Germany
  - Technical Specifications:
    - Gearless Traction Machine: Double wrapped traction driving sheave, with dual brake.
    - Drive System: Permanent magnet (PM) synchronous alternating current (AC) motors and drives.
    - Operation Control Type: Single Automatic (Push Button) Operation Control.
    - Interior Car Height: 96 inches clear, minimum.
    - Electrical Power: 480 volts; alternating current (AC); three phases; 60 Hz.
    - Rated Net Capacity: 4500 pounds.
    - Rated Speed: 125 feet per minute.
- Fire Suppression Components
  - Category: Manufactured Product
  - Cost: \$326,389.03
  - Quantity:
    - 2300 linear feet Fire protection piping - Steel Pipe
    - 650 Fire protection Accessories
    - 435 Fire sprinkler heads
    - 60 Dry pendant fire sprinkler heads
    - 1 Fire protection - double check valve
    - 10 Fire protection - isolation valve
    - 6 Fire protection gate valves
    - 3 Fire protection flow switch
    - 10 Fire protection tamper switch
    - 1 Fire protection – FDC
    - 435 Fire protection escutcheons
    - 1 Fire protection – compressor
    - 1 Fire protection - nitrogen generator
    - 215 Smoke / CO detectors / Strobes
    - 4100 linear feet Fire alarm cabling
    - 1 Fire alarm control panel

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- 5 Fire alarm panel accessories
  - PSC: 6350 - Miscellaneous Alarm, Signal, and Security Detection Systems
  - NAICS: 334290 - Alarm system central monitoring equipment manufacturing
  - Country of Origin: United States
  - Technical Specifications:
    - All components must be compatible and, therefore, sourced from one manufacturer or vendor.
    - Must meet all code requirements (NFPA 71, IBC, ASME A17.1) and local building codes.
- Lighting and Electrical Supplies
  - Category: Manufactured Product
  - Cost: \$451,500.00
  - Quantity:
    - 9 Surge Module / Protector
    - 8 Meter stacks
    - 5400 Unit load centers
    - 92 Distribution panels
    - 290 GFCI receptacles
    - 2500 Receptacle cover plates
    - 259 L-10 & L-20 Surface Mounted Downlight
    - 117 L-11 Fan/Light Combo
    - 131 L-12 24" LED Vanity Light
    - 159 L-20 6" Surface Mounted Downlight
    - 3 L-21 Decorative Pendant
    - 3 L-22 Decorative Pendant
    - 1 L-23A Decorative Pendant
    - 1 L-23B Decorative Pendant
    - 46 L-24 4' Track Light
    - 46 L-25 Tape and Channel
    - 92 L-26 3" Recessed Gimble
    - 24 L-27 Surface Mounted Gimble
    - 2 L-28 4' Indirect
    - 2 L-29 8' Indirect
    - 8 K1 Elevator Pit
    - 11 S4 4' LED Strip
    - 7 S8 8' LED Strip
    - 16 ST 4' Stairwell
    - 53 X1 Exit Signs
    - 773 R1 6" Surface Mounted Downlight
    - 131 R2 6" Surface Mounted Downlight - Wet Locations
    - 131 R3 24" LED Vanity
    - 117 R4 Fan/Light Combo
    - 387 R5 LED Tape and Channel
    - 12 SA & SA1 Exterior LED Area Light
    - 9 SB Exterior LED Pedestrian Light
    - 29 SC Exterior LED Step Light

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- 7 SD Exterior LED String Light
  - 97 SE Exterior LED Tape Light
  - 7 SF Exterior LED Wall Pack
  - 14 SG 7" Surface Mounted Downlight
  - 57 Lighting control / occupancy sensors
- PSC: 6210 - Indoor and Outdoor Electric Lighting Fixtures
- NAICS: 335131 - Ceiling lighting fixtures, residential, manufacturing
- Country of Origin: Germany
- Technical Specifications: Suitable for a multi-family residential building. Must comply with all applicable building codes and the Williams-Steifer Occupational Safety and Health Act of 1970.
- **Plumbing and Accessories**
  - Category: Manufactured Product
  - Cost: \$ 310,632.95
  - Quantity:
    - 1300 linear feet - Poly Pipe Insulation
    - 118- WC-1 Toilets
    - 13-WC-1A Toilets
    - 131- Lavatories
    - 75 -L-1 Kitchen sinks
    - 10 -L-1A Kitchen sinks
    - 10- L-C1A ADA Compliant Sinks
    - 1 -S-1 Sink
    - 1 -BP-1 Domestic Booster Pump
    - 2 -WH-1 & 2 Hot water heaters
    - 10- CP-1 Circulation pumps
  - PSC: 4510 - Plumbing Fixtures and Accessories
  - NAICS: 332913- Flush valves, plumbing, manufacturing
  - Country of Origin: China
  - Technical Specifications: Suitable for a multifamily residential building. Must meet applicable building codes.

### Description of Efforts Made to Avoid the Need for a Waiver

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

The project developer engaged the Oklahoma Manufacturing Alliance (OMA), Oklahoma's official Manufacturing Extension Partnership (MEP), to execute comprehensive, strategic sourcing for compliance with Build America, Buy America (BABA) provisions. OMA's sourcing methodology was multifaceted, involving two primary components: the National Institute of Standards and Technology (NIST) Supplier Scouting Program, and extensive independent market research. This research leveraged three key information assets to identify eligible domestic manufacturers: the OMA's proprietary internal database, the Connex platform, and the Small Business Administration-funded Made in America Portal. Through these efforts, OMA identified and contacted a minimum of five companies that fit the general capabilities to produce similar items in September 2025. None of the manufacturers or suppliers were able to provide BABA-compliant products that met the technical specifications of the project.

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HUD conducted an online search of manufacturers and suppliers and located one potential manufacturer of BABA-compliant products. The grantee conducted additional outreach to the manufacturer and ultimately confirmed that the products they offer are not BABA compliant.

### **Anticipated Impact if No Waiver is Issued**

Failure to grant this BABA waiver would result in the delays of the project or increased costs, as the products are essential for meeting building code requirements, and compliance for the 85-unit affordable housing complex that will serve very-low and low- income individuals and families, including those with Special Needs in Aurora, Colorado.

HUD additionally believes this waiver is justified because most items used in this project will be compliant with BABA. This waiver is for items whose total value is less than 0.5 percent of the total infrastructure expenditure for this project. Approval of this waiver will ensure that the remainder of materials costs support BABA-compliant manufacturers, consistent with the intent of BABA.

**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: The Stables Affordable Housing Project

Recipient Name: Colorado Department of Local Affairs; Arapahoe County Government

Unique Entity Identifier (UEI): NUJ5Q3DW7U98; NENNKAE18LK6

Federal Award Identification Number (FAIN): F-24-SG-08-0100; M-24-DC-08-0221

Financial Assistance Listing Name: Housing Trust Fund; HOME Investment Partnerships Program (HOME)

Assistance Listing Number: 14.275, 14.239

Federal Financial Assistance Funding Amount: \$1,000,000.00; \$272,590.00 (\$1,272,590.00 total)

Total Estimated Infrastructure Expenditures: \$46,643,565.00