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 Foundry Lofts for panelboards and a fire alarm system (HUD Waiver #W-0000347)

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 two 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 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-0000347 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 panelboards and a fire alarm system in an infrastructure project funded through the HOME Investment Partnerships Program (HOME) and 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 two products for a single project. No other project will utilize the waiver.

Proposed Waiver Description: Project-specific nonavailability waiver of BABA requirements to the Foundry Lofts affordable housing project in Des Moines, Iowa for panelboards and a fire alarm system.

Project Summary: The project is in Des Moines, Iowa. The project consists of the new construction of a multi-family building with forty-six (46) low- to moderate-income affordable housing units, located at 509 SE 6th Street, Des Moines, Iowa 50309.

Length of the Waiver: From the effective date of the final waiver until the completion of the project. The waiver expiration date is anticipated to be October 31, 2027.

Items Covered in Waiver: The Iowa Finance Authority is seeking a waiver for panelboards and a fire alarm system, as described in detail below:

- **Name of Product 1:** Panelboards (including power distribution panelboards, lighting and appliance panelboards, load centers, and overcurrent protective devices)
  - NAICS: 335313 Switchboard and Switchboard Apparatus Manufacturing
  - PSC: 6110 Electrical Control Equipment
  - Technical Specifications: Panelboards shall comply with FS W-C-375 (2022); NECA 1 (2023); NECA 407 (2015); NEMA EN 10250 (2024); NEMA PB 1 (2011); NEMA PB 1.1 (2023); NETA ATS (2025); NFPA 70 (most recent edition, including all amendments and supplements); and UL 50, 50E, 67, 489, 869A, 943, and 1699.
- **Name of Product 2:** Digital, Addressable Fire Alarm System
  - NAICS: 334290

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- PSC: 6350
- Technical Specifications: A digital, addressable fire alarm detection system serving a 4-story multi-family residential building, with components sourced from a single manufacturer. The system shall comply with the latest editions of applicable International Code Council (ICC) codes and National Fire Protection Association (NFPA) codes, including NFPA 70, 72, 90A, and 101; IEEE 1100; NEMA 250 (Type 1); UL 38, UL 217, UL 268, UL 268A, UL 464, UL 521, UL 632, UL 864, UL 1971, and UL 2075; and applicable Iowa State and City of Des Moines fire codes.

Description of Efforts Made to Avoid the Need for a Waiver

Both the grantee and HUD made every effort to obtain domestically produced panelboards and fire alarm system components.

The grantee completed market research between June 2026 and July 2026. For the panelboards, the grantee conducted outreach to three (3) manufacturers or suppliers. For the fire alarm system, the grantee conducted outreach to five (5) manufacturers or suppliers. None of the manufacturers or suppliers were able to provide BABA-compliant products that met the technical specifications of the project.

HUD conducted an independent online search of manufacturers and suppliers. For the panelboards, HUD researched five (5) additional manufacturers or suppliers. For the fire alarm system, HUD researched five (5) additional manufacturers or suppliers. HUD did not locate any manufacturers or suppliers that could provide BABA-compliant products meeting the technical specifications of the project.

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 panelboards and fire alarm system.

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: Foundry Lofts

Recipient Name: Iowa Finance Authority

Unique Entity Identifier (UEI): MNSRLUJXL4W

Federal Award Identification Number (FAIN): M25SG190100 and F25SG1-90100

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

Assistance Listing Number: 14.239 and 14.275

Federal Financial Assistance Funding Amount: $1,900,000.00

Total Estimated Infrastructure Expenditures: $23,000,000.00

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