

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 Green Park Apartments Affordable Housing Rehabilitation Project for Bathroom Fan Motors (HUD Waiver #W-0000047)**

**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 single product 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-0000047 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 IJA, for bathroom fan motors 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.

Proposed Waiver Description: Project-specific nonavailability waiver of BABA requirements to the Green Park Apartments affordable housing project in Junction City, Kansas for bathroom fan motors.

Project Summary: The project is in Junction City, Kansas. The project consists of the rehabilitation of 100 affordable housing units. The project is located at 1427 N. Calhoun St.

Length of the Waiver: From the effective date of the final waiver until December 31, 2026.

Items Covered in Waiver: The Kansas Housing Resources Corp. is seeking a waiver for bathroom fan motors, as described in detail below:

- Bathroom Fan Motors
  - Category: Manufactured Product
  - Cost: \$4,995.00
  - Quantity: 100
  - PSC: 4140 – Fans, Air Circulators, and Blower Equipment
  - NAICS: 423730 – Warm Air Heating and Air-Conditioning Equipment and Supplies Merchant Wholesalers
  - Country of Origin: Vietnam
  - Technical Specifications: Must consist of a replacement motor and wheel rated 50 CFM and compatible with existing bathroom fans.

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

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

The grantee completed market research in June 2025 which consisted of outreach to three (3) manufacturers or suppliers of bathroom fan motors. None of the manufacturers or suppliers were able to provide BABA-compliant products that met the technical specifications of the project. The number of suitable manufacturers is limited because the bathroom fan motors in question must be compatible with the existing bathroom fans.

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**

Since no domestically available alternative is available, a waiver is necessary for the project to move forward as designed. If no waiver is issued the team would have no option but to remove replacement of this item from the scope of work. The existing bathroom fans would have to be left in place despite the fact that they are well past their useful life. This would also constitute a change to the plans, specifications, and construction scope which have already been thoroughly reviewed and approved by HUD in conjunction with the 221(d)(4) first mortgage issued for this rehabilitation.

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 1 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: Green Park Apartments Affordable Housing Rehabilitation Project

Recipient Name: Kansas Housing Resources Corp.

Unique Entity Identifier (UEI): S249YBY1KLE8

Federal Award Identification Number (FAIN): F-24-SG-20-0100

Financial Assistance Listing Name: Housing Trust Fund (HTF)

Pre-decisional DRAFT

Assistance Listing Number: 14.275

Federal Financial Assistance Funding Amount: \$950,000.00

Total Estimated Infrastructure Expenditures: \$17,458,357.00

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