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 Park Place Redevelopment Affordable Housing Development for HVAC Equipment, Door Hardware, Electrical Wiring Devices, Fiberglass Windows and Storefront Systems, Irrigation, and Plumbing Fixtures (HUD Waiver #W-0000272)

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. Please reference HUD Waiver #W-0000272 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.

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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 HVAC equipment, door hardware, electrical wiring devices, fiberglass windows and storefront systems, irrigation and backflow prevention products, and plumbing fixtures in an infrastructure project funded through the 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 Park Place Redevelopment affordable housing development in Oregon City, Oregon for HVAC equipment, door hardware, electrical wiring devices, fiberglass windows and storefront systems, irrigation and backflow prevention products, and plumbing fixtures.

Project Summary: The project is in Oregon City, Oregon. The project consists of the development of Park Place Redevelopment, a 200-unit affordable multifamily housing development with a community center, located at 13930 Gain Street, Oregon City, OR 97045, on a 16-acre site.

Length of the Waiver: From the effective date of the final waiver until September 30, 2028.

Items Covered in Waiver: The County of Clackamas is seeking a waiver for HVAC equipment, door hardware, electrical wiring devices, fiberglass windows and storefront systems, irrigation and backflow prevention products, and plumbing fixtures, as described in detail below:

- **Name of Product 1:** HVAC Equipment (Inverter-Driven Split Heat Pump System)
- **Category:** Manufactured Product
- **NAICS:** 333415
- **PSC:** 4120

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- **Technical Specifications:** Split Heat Pump: R-32 refrigerant, inverter/variable-capacity technology, specified cooling and heating capacities, 208/230V single-phase power, ductless/multi-position configurations as applicable, and compatibility between the specified indoor and outdoor units.
- Energy Recovery Ventilator: Adjustable from 35 to 146 CFM at 0.4 in. w.g.; at 0.4 in. w.g. balanced pressure, net supply airflow is 146 CFM (gross supply/exhaust approximately 148 CFM each); 120V/1-phase/60Hz, MCA 2.4A, MOCP 15A, 170 watts; size 32" x 20-1/2" x 10-1/16".
- **Name of Product 2:** HVAC Equipment (Energy Recovery Ventilators)
- **Category:** Manufactured Product
- **NAICS:** 238220
- **PSC:** 4140
- Energy Recovery Ventilator: Adjustable from 35 to 146 CFM at 0.4 in. w.g.; at 0.4 in. w.g. balanced pressure, net supply airflow is 146 CFM (gross supply/exhaust approximately 148 CFM each); 120V/1-phase/60Hz, MCA 2.4A, MOCP 15A, 170 watts; size 32" x 20-1/2" x 10-1/16".
- **Name of Product 3:** Door Hardware
- **Category:** Manufactured Product
- **NAICS:** 332510
- **PSC:** 5340
- **Technical Specifications:** Electro-Mechanical Locks: Free-wheeling; power-on allows lever activation for entry; mechanical key override.
- Cylindrical Locks: Grade 1 and Grade 2 certified; field reversible; ADA compliant; windstorm certified.
- Exit Devices: Aluminum rail design; Grade 1 certified; noise reduction and smooth operation.
- Closers: Grade 1 and Grade 2 certified; listed for use on fire-rated doors; ADA compliant; cast-aluminum body; self-drilling screws; uni-stop arms.
- Weather Strips, Door Bottoms, and Thresholds: 5-1/16" x 1/2"; ADA compliant.
- Misc. Hardware: Full-mortise levers; modular hinge options available; hinges 4" x 2" plates.
- Sliding Glass Door Hardware: For bypass doors; fits 1-3/8" and 1-3/4" doors; 200-lb panel capacity; steel ball-bearing wheels.
- Cylinders: Nightlatch access by key; available for all wide and narrow stile rims; cylindrical collar furnished standard for 1-3/4" thick doors.
- Stops/Holders: Spring steel; 6-3/4" sheet-metal screw; heavy spring construction for durable wear; wall stop with concealed mounting and concave bumper.
- Flush Bolts: Brass material; adjustable bolt head; fits ANSI A115.
- Push/Pull Systems: Stainless-steel oblong posts.
- Protective Plates: 0.5" thickness; all edges beveled.
- Silencers: Clear rubber; self-adhesive mounting for metal or wood.
- **Name of Product 4:** Electrical Wiring Devices
- **Category:** Manufactured Product

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- **NAICS:** 238210
- **PSC:** 5999
- **Technical Specifications:** Self-Test GFCI: Automatic test every 3 seconds; withstands 1500V minimum; 125 VAC working voltage.
- Straight Blade Receptacles: 15 amps, 125 volts, 2 pole 3 wire.
- Switches: 15 amps, 120 VAC.
- Power Outlets: 30 amps, flush mount, 125/250 V.
- **Name of Product 5:** Fiberglass Windows and Fiberglass Storefront System
- **Category:** Manufactured Product
- **NAICS:** 238150
- **PSC:** 5670
- **Technical Specifications:** Fixed and Operable Fiberglass Windows: Double glazed; U-Glass 0.24; SHGC 0.27; VT 0.63; UW per NFRC Method 0.24; R-7.1.
- Fiberglass Storefront System: Double glazed; U-Glass 0.24; SHGC 0.27; VT 0.63; UW per NFRC Method 0.24; R-7.1.
- **Name of Product 6:** Irrigation System, Controls, and Backflow Prevention
- **Category:** Manufactured Product
- **NAICS:** 221310
- **PSC:** 4720
- **Technical Specifications:** Swing Joint (TSJ): 12" length; 3/4" inlet; pressure rating 315 psi at 73 degrees F; no internal obstructions; rigid PVC Type 1, Cell Classification 12454-B.
- Funny Pipe/Fitting: 100-ft coil; rated up to 80 psi and 110 degrees F; robust acetal construction.
- Flow Sensor and Flow Sensor Tee: 1-1/2" Schedule 40 sensor receptacle tee.
- Control Valves: Globe/angle control valves; 1" and 1-1/2" inlet configurations; approximately 5-1/2" to 7-1/8" height and 4-3/4" to 6-7/8" length.
- Quick Couplers: 1" NPT; single-slot; two-piece body; yellow finish.
- Controllers: Stainless-steel, metal wall-mount controller; approximately 15-7/10" H x 15" W x 6-4/5" D.
- Wi-Fi Module: Wi-Fi connectivity module; compatible with 75-station base model; stainless-steel wall-mount configuration.
- Valve Decoders: Single-station decoder with surge suppression and grounding wire.
- Weather Sensors: Two-input sensor decoder; surge suppression and ground wire; gutter mount; approximately 4-1/2" H x 8-1/2" W x 1" D.
- Spray Heads: 40-psi regulated shrub adapter and 40-psi regulated 12" pop-up configurations.
- Rotors: For shrubs and 6" pop-up configurations.
- Backflow Preventer (Double Check): 2"; approximately 22 lb.; ball valves; cast-bronze main body; reinforced nylon housing; stainless-steel fasteners; maximum working pressure 175 psi at 180 degrees F.

- Master Valve: 2" solenoid-controlled globe valve; female NPT threads; three-way control loop; plastic tubing and fittings.
- **Name of Product 7:** Plumbing Fixtures (Tub/Shower Trim and Faucets)
- **Category:** Manufactured Product
- **NAICS:** 332913
- **PSC:** 4510
- **Technical Specifications:** Lavatory Faucets: Centerset with lever handles; 1-1/8" minimum diameter; rotating spout; 1.2 gpm maximum at 60 psi. Single-handle with pivot-action lever-style handle; temperature controlled by 100-degree arc of handle; 1.2 gpm maximum at 60 psi.
- Tub and Shower Faucet Trim: Maximum flow rate 1.75 gpm at 80 psi; 120-degree maximum handle rotation; 1/2"-14 threaded tub spout.
- Slide Bar/Grab Bar Hand-Held Shower: 9-spray-setting hand shower; push-button selection; soft-touch non-slip grip; ADA compliant.
- Three-Function Diverter Trim: Main control uses single-function pressure-balanced cartridge; bottom handle 120-degree maximum rotation; six-function diverter for 3 individual positions and 3 shared positions; red/blue indicator markings.
- Kitchen Faucets: 9" center-to-center tubular brass spout; single hole; 1.5 gpm; rated operating pressure 20 to 125 psi.

Description of Efforts Made to Avoid the Need for a Waiver

Both the grantee and HUD made every effort to obtain domestically produced products in each of the categories listed above.

The grantee completed market research between December 2025 and June 2026, which consisted of interviews with at least three (3) manufacturers or suppliers within each product category, with due-diligence findings documented for each category. 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 additional manufacturers and suppliers within each product category and 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 HVAC equipment, door hardware, electrical wiring devices, fiberglass windows and storefront systems, irrigation and backflow prevention products, and plumbing fixtures, which are necessary for the individual dwelling units and common areas of this 200-unit affordable multifamily housing development. HUD further believes this waiver is justified because most items used in this project will be compliant with BABA, and this waiver is limited to the specific products identified above.

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: Park Place Redevelopment

Recipient Name: County of Clackamas

Unique Entity Identifier (UEI): NVWKAVB8JND6

Federal Award Identification Number (FAIN): M24-UC-41-0201 and M25-UC-41-0201

Financial Assistance Listing Name: HOME Investment Partnerships Program (HOME)

Assistance Listing Number: 14.239

Federal Financial Assistance Funding Amount: $3,500,000.00

Total Estimated Infrastructure Expenditures: $126,493,828.00

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