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 New Asia Senior Housing Project for an Elevator, VRF System, and PTAC Units (HUD Waiver #W-0000365)

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-0000365 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 an elevator, a VRF system, and PTAC units in an infrastructure project funded through the HOME Investment Partnerships Program (HOME) and the Community Development Block Grant (CDBG) program.

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 New Asia Senior Housing affordable housing project in San Francisco, California for an elevator, a VRF system, and PTAC units.

Project Summary: The project is in San Francisco, California. The project consists of the new construction of a 100% affordable senior housing building: a 15-story, Type 1A building with 175 senior units. The ground floor facing Pacific Avenue includes a community-serving commercial space/banquet hall with a mezzanine and a residential lobby, with additional commercial support space in the basement. The second floor includes a community room and terrace, property management and resident services offices, and a manager's unit; floors 3–15 contain residential units.

Length of the Waiver: From the effective date of the final waiver until the completion of the project, which is anticipated to be February 28, 2030.

Items Covered in Waiver: The City and County of San Francisco is seeking a waiver for the products described in detail below:

- **Name of Product 1:** Passenger Elevators
  - **NAICS:** 333921
  - **PSC:** 3960
  - **Technical Specifications:** Electric Traction Elevators (Specification 14 21 00). Elevators #1 & #2: machine-room-less (MRL) gearless traction Class A passenger elevators; 500 FPM and 3,500 lb; 480V, 3-phase, 60 Hz; 16

stops, 161'-7" total run, single front opening (16 openings total); 9' x 7'-6" hoistway (per elevator in combined shaft) with 16'-2" clear overhead at top floor; duplex operation with remote controller and emergency power provisions; gurney compliant. Elevator #3: MRL gearless traction Class A passenger elevator; 150 FPM and 3,500 lb; 480V, 3-phase, 60 Hz; 3 stops, 27'-8" total run, front and rear opening (4 openings total); 8'-11" x 7'-6" hoistway with 12'-4" clear overhead at top floor; simplex operation with emergency power provisions; gurney compliant. Code: 2022 CBC, ASME A17.1-2004.

- **Name of Product 2:** PTAC Units
  - **NAICS:** 333415
  - **PSC:** 4120
  - **Technical Specifications:** Spec section 23 01 10-12, Packaged Terminal Air Conditioner: a self-contained ductless heating and cooling unit installed directly through the exterior wall. PTACs associated with this project will be used in all residential dwelling units. 9,000–10,000 BTUs; SEER Rating 7.14; HSPF2 Rating 2.34.
- **Name of Product 3:** VRF Systems
  - **NAICS:** 333415
  - **PSC:** 4120
  - **Technical Specifications:** Spec section 23 01 10-1.10, Roof-Mounted Heat Pump (VRF System): a large-scale, highly efficient HVAC system that circulates refrigerant directly to multiple indoor fan coil units. 168,000 BTUs; SEER Rating 18; HSPF2 Rating 9.

Description of Efforts Made to Avoid the Need for a Waiver

Both the grantee and HUD made every effort to obtain domestically produced elevator, VRF, and PTAC products.

The general contractor solicited bids from four qualified elevator manufacturers in June 2025 through a publicly posted solicitation; the results indicated that final assembly occurs domestically, but the source materials do not meet the domestic content requirement. For the PTAC units and VRF system, the subcontractor reached out in December 2025 to three suppliers representing eight manufacturers to source BABA-compliant options and found none; the suppliers indicated that the majority of parts are manufactured overseas or are manufactured domestically but sourced overseas.

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

Failure to grant a waiver for this project would result in the inability of the developer to install the required elevator, VRF system, and PTAC units, jeopardizing the building's heating, cooling, and vertical transportation systems and placing the project at risk.

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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: New Asia Senior Housing Project

Recipient Name: City and County of San Francisco

Unique Entity Identifier (UEI): MYM4VNNBN6T9

Federal Award Identification Number (FAIN): M24-MC060213; M25-MC060213; M26-MC060213

Financial Assistance Listing Name: HOME Investment Partnerships Program (HOME); Community Development Block Grant (CDBG)

Assistance Listing Number: 14.239, 14.218

Federal Financial Assistance Funding Amount: $11,224,838.36

Total Estimated Infrastructure Expenditures: $125,000,000.00

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