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 Scotty's Station Apartment for HVAC Outdoor Condensing Units and Group Metering Assembly (HUD Waiver #W-0000386)

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 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-0000386 in the subject line.BuildAmericaBuyAmerica@hud.gov

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 HVAC outdoor condensing units and a group metering assembly 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 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 Scotty Station Apartments affordable housing project in Sacramento, California for HVAC outdoor condensing units and a group metering assembly.

Project Summary: The project is in Sacramento, California. Scotty Station Apartments is a proposed new construction development located on a 0.97-acre site at 1601 69th Street in Sacramento, California. The project consists of a five-story multifamily building with 66 residential units, including 19 one-bedroom units, 28 two-bedroom units, 19 three-bedroom units, and one two-bedroom manager's unit.

Length of the Waiver: From the effective date of the final waiver until the completion of the project, which is anticipated to be February 29, 2028.

Items Covered in Waiver: The Sacramento Housing and Redevelopment Agency is seeking a waiver for HVAC outdoor condensing units and a group metering assembly, as described in detail below:

- **Name of Product 1: HVAC Condensing Units**
  - **NAICS**: 333415
  - **PSC:** 4120
  - **Technical Specifications:** Function: Outdoor condensing unit designed to provide cooling or refrigeration by rejecting heat from the system through a compressor and condenser coil. Major Components: Includes a compressor, condenser coil, condenser fan and motor, refrigerant

connections, and associated electrical and control components. Performance Requirements: Sized to meet specified cooling capacity, refrigerant type, energy-efficiency ratings, operating temperature range, and system compatibility requirements. Installation and Compliance: Designed for outdoor installation with weather-resistant construction and compliance with applicable safety, electrical, and HVAC standards, including relevant AHRI and UL requirements.

- **Name of Product 2:** Group Metering Assembly
- **NAICS**: 335313
- **PSC**: 6110
- **Technical Specifications:** Configuration: Factory-assembled electrical metering unit with multiple meter sockets and compartments for measuring electricity consumption across multiple residential units or designated loads. Electrical Ratings: Designed for specified service voltage, amperage, phase, and frequency, typically 120/208V or 120/240V, depending on project requirements. Distribution and Safety: Includes rated busbars, electrical connections, grounding and bonding provisions, and applicable disconnect or overcurrent protection components. Compliance and Installation: Meets applicable UL listing requirements, National Electrical Code (NEC) provisions, and serving utility specifications for multifamily residential applications.

Description of Efforts Made to Avoid the Need for a Waiver

Both the grantee and HUD made every effort to obtain domestically produced HVAC outdoor condensing units and a domestically produced group metering assembly.

For the HVAC outdoor condensing units, the grantee completed market research from April through August 2026, which consisted of outreach to three (3) manufacturers or suppliers of HVAC outdoor condensing units. The project team reviewed manufacturer product catalogs, AHRI directory information, supplier and distributor availability, and available market research. None of the manufacturers or suppliers were able to provide BABA-compliant products that met the technical specifications of the project.
For the group metering assembly, the grantee team (developers, general contractors, mechanical subcontractor, and engineer) completed market research from July through September 2026, which consisted of outreach to five (5) manufacturers or suppliers of group metering assemblies. The project team reviewed manufacturer product catalogs, supplier information, and available market research. None of the manufacturers or suppliers were able to provide BABA-compliant products that met the technical specifications of the project.

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 HVAC outdoor condensing units and group metering assembly. Without the condensing units

the dwelling units cannot be conditioned, the building cannot be occupied, and the project cannot be completed. The failure to obtain the correct group metering assembly would prevent the building from being occupied and would result in the termination of the project.

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: Scotty Station Apartments

Recipient Name: Sacramento Housing and Redevelopment Agency

Unique Entity Identifier (UEI): SEWMCB9EXL34

Federal Award Identification Number (FAIN): M-24-MC-06-0210

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

Assistance Listing Number: 14.239

Federal Financial Assistance Funding Amount: $1,097,582.41

Total Estimated Infrastructure Expenditures: $28,148,211.00

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