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 River City/Scotty Station Project for a Freight Elevator (HUD Waiver #W-0000378)

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. Please reference HUD Waiver #W-0000378 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 a freight elevator 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 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 River City/Scotty Station affordable housing project in Sacramento, California for a freight elevator.

Project Summary: The project is in Sacramento, California. River City/Scotty Station Apartments is a proposed new construction development on 0.97 acres of land located at 1601 69th Street. This will be a five-story building, with two elevators, comprised of 66 units which consist of 19 one-bedroom units, 28 two-bedroom units, 19 three-bedroom units, and one two-bedroom manager's unit. There will be 17 parking spaces, including one (1) ADA parking space. The units will be geared toward families in the Area Median Income (AMI) range of 30% and up.

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

Items Covered in Waiver: The Sacramento Housing and Redevelopment Agency is seeking a waiver for a freight elevator, as described in detail below:

- **Name of Product 1: Freight Elevator**
  - **Quantity: 2**
  - **NAICS: 333921 – Elevators, passenger and freight, manufacturing**
  - **PSC: 3960 – Freight Elevators**
  - **Technical Specifications: 3,500 lb (1,588 kg) passenger cab; 208-volt, 3-PH AC electric traction elevator; 60 Hz. National Code: ASME A17.1/CSA B44 - 2004. Local Code: CA.**

Description of Efforts Made to Avoid the Need for a Waiver

Both the grantee and HUD made every effort to obtain a domestically produced freight elevator.

Both the grantee and HUD made every effort to obtain domestically produced products for each of the packages listed above.
The grantee completed market research between March 2026 and August 2026, which consisted of outreach to four (4) manufacturers or suppliers of elevators. None of the manufacturers or suppliers contacted 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 each product package and did not locate any manufacturers or suppliers that could provide BABA-compliant products meeting the project's technical specifications.

Anticipated Impact if No Waiver is Issued

Failure to grant a waiver for this project would result in termination of the project. The freight elevator is required because an operable passenger elevator is a condition of occupancy under the Americans with Disabilities Act, the Fair Housing Act design and construction requirements, and California Building Code Chapter 11A; code does not accept alternatives. The elevator is necessary for the five-story building to be compliant with the Americans with Disabilities Act.

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: River City/Scotty Station

Recipient Name: Sacramento Housing and Redevelopment Agency

Unique Entity Identifier (UEI): SEWMCB9EXL34

Federal Award Identification Number (FAIN): M-21-MC-06-0210, M-24-MC-06-0210

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

Assistance Listing Number: 14.239

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Federal Financial Assistance Funding Amount: $1,950,000.00

Total Estimated Infrastructure Expenditures: $33,699,041.00

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