

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 Goldfinch Lofts Affordable Housing Project for Prefabricated Windows (HUD Waiver #W-0000084)

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-0000084 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

Pre-decisional DRAFT

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 prefabricated windows 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 Goldfinch Lofts affordable housing project in Des Moines, Iowa for prefabricated windows.

Project Summary: The project is in Des Moines, Iowa. The project consists of a 28-unit affordable housing building located at 35th and Ingersoll Avenue.

Length of the Waiver: From the effective date of the final waiver until December 31, 2027.

Items Covered in Waiver: The Iowa Finance Authority is seeking a waiver for prefabricated windows, as described in detail below:

- Prefabricated Windows
 - Category: Manufactured Product
 - Cost: \$121,574 (\$1,381.52 each)
 - Quantity: 88
 - PSC: 5670 Building Components, Prefabricated
 - NAICS: 332321 Frames, door and window, metal, manufacturing
 - Country of Origin: Lithuania
 - Technical Specifications:
 - Glazing: 4T_SN51/12Ar/4T/18Ar/CG_4T (tempered), 4_SN51/12Ar/4/18Ar/CG_4, 6T_SN51/14Ar/6T/10Ar/CG_6T (tempered), 4T_SN51/18Ar/4T/18Ar/CG_4T (tempered)
 - Finish: Black Smooth, FX (02.12.01.000004 - 809700) interior / Black Smooth, FX (02.12.01.000004 - 809700) exterior
 - Operation: Fixed, Casement (in-swing), Turn (out-swing doors), Turn (out-swing doors)

Pre-decisional DRAFT

- Hardware colors: Black (RAL9005)
- Accessories:
 - Limiters: 4" Securistyle limiter w/friction, removable w/ standard screws, 1 pc., w/release key (3 keys per project), 90-degree removable door limiter
 - Screens: N/A
 - Installation method: Steel L angle 40x40x3 w/ holes, full length (19' 8 7/32", 6m)
 - Trims: Small polymer L shaped cover (3252), 1 9/16" x custom x 3/32" (40 x custom x 2.5), full length (19' 8 7/32"), interior

Description of Efforts Made to Avoid the Need for a Waiver

Both the grantee and HUD made every effort to obtain domestically produced prefabricated windows and frames.

The grantee completed market research between May and September 2025 which consisted of outreach to seven (7) manufacturers or suppliers of windows and frames. One of the consulted manufacturers does produce windows domestically but was unable to meet the required technical specifications for this project. The other six (6) manufacturers or suppliers could not provide BABA-compliant products.

HUD conducted an online search of manufacturers and suppliers and did not locate any manufacturers or suppliers that could provide BABA-compliant products that met the technical specification requirements of this project.

Anticipated Impact if No Waiver is Issued

Failure to grant this waiver would directly jeopardize the completion of the 28-unit affordable housing project. The required window system is integral to meeting accessibility, ventilation, life-safety, and ADA compliance standards. There are currently no domestically manufactured window systems that meet the project's required performance specifications, energy ratings, and ADA operability thresholds. Without a compliant window system, the building cannot pass code inspections or obtain a certificate of occupancy. As a result, the project would face indefinite delay or termination, leaving the agency unable to deliver urgently needed affordable units and undermining statutory program goals.

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 one (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.

Pre-decisional DRAFT

Description of Award

Agency: United States Department of Housing and Urban Development (HUD)

Common Governmentwide Accounting Classification (CGAC) Code: 086

Title of Project: Goldfinch Lofts Affordable Housing Project

Recipient Name: Iowa Finance Authority

Unique Entity Identifier (UEI): MNSRLUJXL4W3

Federal Award Identification Number (FAIN): M24-SG190100

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

Assistance Listing Number: 14.239

Federal Financial Assistance Funding Amount: \$1,000,000.00

Total Estimated Infrastructure Expenditures: \$12,483,357.00