

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 Illinois Housing Development Authority (IHDA) for a Variable Refrigerant Flow (VRF) System (HUD Waiver #W-0000044)

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-0000044 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 VRF system used 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 Corcoran Place Apartments affordable housing project in Chicago, Illinois, for a VRF system.

Project Summary: The project is in Chicago, Illinois. The project consists of the rehabilitation of 94 affordable housing units. The project consists of two (2) buildings located at 325 and 345 North Austin Boulevard.

Length of the Waiver: From the effective date of the final waiver until August 30, 2026.

Items Covered in Waiver: IHDA is seeking a waiver for a VRF system, as described in detail below:

- VRF System
 - Category: Manufactured Product
 - Cost: \$450,000
 - Quantity: 2 systems with 182 total component parts (including wall-mounted units, ducted units, air conditioners, condensers, and heat pumps)
 - PSC: 4130 – Refrigeration and Air Conditioning Components
 - NAICS: 333415 – Air-Conditioning and Warm Air Heating Equipment Manufacturing
 - Country of Origin: South Korea
 - Technical Specifications: SEER > 20; Nominal capacity 7,500 to 12,300 BTU/h (indoor) and 48,000-216,000 (outdoor); Peak fan airflow 254-392 cfm (23-42 dBA), indoor 32-15/16 x 12-1/8 x 5-29/32, 19.6 lbs; outdoor 22-17/32 x 48-13/16 x 29 29-32, 639 lbs

Description of Efforts Made to Avoid the Need for a Waiver

Both the grantee and HUD made every effort to obtain a domestically produced VRF system.

The grantee completed market research between January and June 2025 which consisted of outreach to four (4) manufacturers or suppliers of VRF systems. None of the manufacturers or suppliers were able to provide BABA-compliant products that met the technical specifications of the project. Similarly, 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 specifications of the project.

Anticipated Impact if No Waiver is Issued

Failure to grant a waiver for this project would require the design and installation of an alternative system that must both maintain adequate levels of heating and cooling for residents and meet the minimum savings performance outlined in the project requirements. VRF technology is a well-known and trusted method for delivering low-energy heating and cooling. One alternative discussed is the use of a packaged terminal air conditioner (PTAC), which is inferior to the VRF system in terms of energy performance and moisture control, and would require penetrating the building envelope for installation—further diminishing any potential energy savings. Additionally, due to its lower heating capacity, the PTAC would require the retention of the existing electric baseboard heating. As outlined in the waiver application, the VRF system would allow the project to eliminate the electric baseboard units and provide a more efficient, integrated heating and cooling solution.

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: Corcoran Place Affordable Housing Project

Recipient Name: Illinois Housing Development Authority

Unique Entity Identifier (UEI): GA8G WCRX UDL3

Federal Award Identification Number (FAIN): M24-SG170100

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

Assistance Listing Number: 14.239

Pre-decisional DRAFT

Federal Financial Assistance Funding Amount: \$1,500,000

Total Estimated Infrastructure Expenditures: \$39,569,045

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