

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 Saxman Affordable Housing
Project for Mini-Split Heat Pumps (HUD Waiver #W-0000041)**

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-0000041 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 mini-split heat pumps used in an infrastructure project funded through the Community Development Block Grant (CDBG) and Housing Trust Fund (HTF) programs.

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 Saxman Affordable Housing project in Saxman, Alaska, for mini-split heat pumps.

Project Summary: The project is in Saxman, Alaska. The project consists of the construction of twenty (20) low-income rental housing units. The project will consist of four (4) buildings located at 2900 Tongass Highway. The construction standard will be specific to the wet climate in Southeast Alaska and all products must meet technical specifications that meet that standard.

Length of the Waiver: From the effective date of the final waiver until December 31, 2026.

Items Covered in Waiver: The State of Alaska is seeking a waiver for mini-split heat pumps, as described in detail below:

- Mini-Split Heat Pumps:
 - Category: Manufactured Product
 - Cost: \$120,000
 - Quantity: 20 units
 - PSC: 4120 - Air Conditioning Equipment
 - NAICS: 333415 - Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment Manufacturing
 - Country of Origin: Japan or Thailand
 - Technical Specifications: SEER2 \geq 20, HSPF2 \geq 12.5, inverter-driven compressor, cold-climate rated, 208-230V, cooling 367–593 cfm (33–45 dBA), heating 399–

653 cfm (33–45 dBA), R-410A (3.20 lbs), indoor 11-5/8 × 39 × 10-3/8 in (29 lbs), outdoor 28-15/16 × 34-1/4 × 12-5/8 in (108 lbs)

Description of Efforts Made to Avoid the Need for a Waiver

Both the grantee and HUD made every effort to obtain domestically produced mini-split heat pumps, line set control systems, and insulated copper tubing.

The grantee completed market research between July 2024 and June 2025 which consisted of outreach to nine manufacturers or suppliers of mini-split heat pumps. The grantee also contacted industry groups to determine if they were aware of any manufacturers of BABA-compliant products. None of the manufacturers or suppliers were able to provide BABA-compliant products that met the technical specifications of the project and industry groups were not aware of any manufacturers that met the requirements. Similarly, HUD conducted an online search of manufacturers and suppliers and did not locate any manufacturers or suppliers that could provide BABA-compliant mini-split heat pumps.

An earlier version of this waiver proposal included additional products, namely line set cover systems and insulated copper tubing. Through market research, HUD was able to identify BABA-compliant alternatives for these two products which the grantee will now utilize, thus narrowing the scope of this waiver.

Anticipated Impact if No Waiver is Issued

Failure to grant a waiver for these products would result in project delays and increased costs. Project financing could be rendered non-viable, resulting in the loss of 20 units of affordable housing that will primarily serve low- and moderate-income families in Saxman Alaska.

Assessment of Cost Advantage of a Foreign-Sourced Product

Under OMB M-24-02, “Implementation Guidance on Application of Buy America Preference in Federal Financial Assistance Programs for Infrastructure,” 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: Saxman, Alaska Affordable Housing Project

Recipient Name: State of Alaska

Unique Entity Identifier (UEI): V51B Y26T 73M5

Federal Award Identification Number (FAIN): M24-SG020100, F24SG020100

Financial Assistance Listing Name: Community Development Block Grants/Entitlement Grants,
Housing Trust Fund

Assistance Listing Number: 14.218, 14.275

Federal Financial Assistance Funding Amount: \$2,204,162

Total Estimated Infrastructure Expenditures: \$12,262,971