

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 Hilltop Manor Apartments Affordable Housing Project for Mini-Split Heat Pumps (HUD Waiver #W-0000059)

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-0000059 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 in an infrastructure project funded through the Housing Trust Fund (HTF).

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 Hilltop Manor Apartments affordable housing project in Eveleth, Minnesota for mini-split heat pumps.

Project Summary: The project is in Eveleth, Minnesota. The project consists of the rehabilitation of a multifamily affordable housing building. The project is located at 100 McKinley Ave., Eveleth, MN.

Length of the Waiver: From the effective date of the final waiver until September 30, 2027.

Items Covered in Waiver: The Minnesota Housing Finance Agency is seeking a waiver for mini-split heat pumps, as described in detail below:

- Ductless Mini-split Heat Pump System - Indoor
 - Category: Manufactured Product
 - Cost: \$2,640.00
 - Quantity: 1
 - PSC: 4120 – Air conditioning equipment
 - NAICS: 333415 - Air-Conditioning and Warm Air Heating Equipment Manufacturing
 - Country of Origin: Mexico or Thailand
 - Technical Specifications: SEER2 25.6, EER2 13.35, HSPF2 10, COP at 47F 3.92, Energy Star Certified
- Ductless Mini-split HVAC System-Outdoor
 - Category: Manufactured Product
 - Cost: \$2,975.00

- Quantity: 1
- PSC: 4120 - Air Conditioning Equipment
- NAICS: 333415 - Air-Conditioning and Warm Air Heating Equipment Manufacturing
- Country of Origin: Mexico or Thailand
- Technical specifications: SEER2 25.6, EER2 13.35, HSPF2 10, COP at 47F 3.92, Energy Star Certified

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.

The grantee completed market research between May and June 2025 which consisted of outreach to the NIST MEP Supplier Scouting Service. The Supplier Scouting Service did not identify any BABA-compliant manufacturers after a national search that consulted 43 manufacturers.

HUD conducted an online search of manufacturers and suppliers and did not locate any manufacturers or suppliers that could provide BABA-compliant products. This is consistent with HUD's findings for previous mini-split waiver requests.

Anticipated Impact if No Waiver is Issued

Failure to grant a waiver for this project would mean that the State cannot complete the affordable housing project, impacting the state's ability to deliver this critical housing to low-income families.

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 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.

Description of Award

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

Common Governmentwide Accounting Classification (CGAC) Code: 086

Title of Project: Hilltop Manor Apartments

Recipient Name: Minnesota Housing Finance Agency

Unique Entity Identifier (UEI): KGAPBAMK58L3

Federal Award Identification Number (FAIN): F24SG2-70100

Financial Assistance Listing Name: Housing Trust Fund

Assistance Listing Number: 14.275

Federal Financial Assistance Funding Amount: \$6,120,000.00

Total Estimated Infrastructure Expenditures: \$14,930,289.00