

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBJECT: Final Project-Specific Public Interest Waiver of Build America Buy America Act (BABA) Requirements for the New City Plaza Apartments (HUD Waiver #W-0000039)

Introduction

The U.S. Department of Housing and Urban Development (HUD) is issuing a final Build America Buy America Act (BABA) waiver to an assistance recipient, based on the justification that requiring a previously planned project to comply with BABA requirements would be inconsistent with the public interest.

Solicitation of Public Comment

The proposed waiver was posted on HUD's public facing webpage and a notice of the proposed waiver was posted to the Made in America website from June 29, 2026, through July 13, 2026, thus satisfying the requirement to publish any BABA project waiver and provide the public with fifteen (15) days to submit comments. HUD did not receive any public comments on this waiver during the public comment period. Therefore, no changes were made to the proposed waiver, except to replace references to the “proposed waiver” with references to the “final waiver.”

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 (FFA) 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

Final Waiver: HUD is soliciting comments regarding whether to issue a waiver of the requirements of section 70914 of BABA included in the IIJA, for the New City Plaza Apartments development funded by the County of Salt Lake and the State of Utah.

Waiver Type: Project-Level Public Interest Waiver

Waiver Level and Scope: Project-level waiver for a single project funded by two assistance recipients. No other award or project will utilize the waiver.

Waiver Description: Project-level waiver of BABA requirements for a project that was planned and contracted prior to the award of funding subject to BABA.

Project Summary: The project is located at 1992 S 200 E, Salt Lake City, Utah. The project consists of the construction of a 299-unit affordable senior housing development.

Length of the Waiver: From August 24, 2026, until September 30, 2027.

Items Covered in Waiver: Not applicable because the waiver will be applied at the project level, not to specific products.

Justification for Public Interest Waiver

HUD seeks a public interest waiver of the BAP as applied to the New City Plaza Apartments affordable housing project. The project is receiving Federal financial assistance via both the County of Salt Lake, which is contributing \$390,206.00 in FY24 HOME Investment Partnerships Program (HOME) FFA, and the State of Utah, which is contributing \$1,479,830.98 in FY24 Housing Trust Fund (HTF) FFA. Under HUD's "Public Interest Phased Implementation Waiver for FY2022 and 2023 of Build America, Buy America Provisions as Applied to Recipients of HUD Federal Financial Assistance" ("HUD Phased Implementation Waiver"), these FFA sources result in the project being subject to BABA for all covered materials, although it was not anticipated that BABA would apply to this project prior to the award being made.

The project financing closed and construction on this project began on June 22, 2022. At the time of project closing, no FFA subject to BABA had been awarded to the project. However, the project encountered unforeseen cost overruns because of urgent structural deficiencies related to life-safety systems, including fire alarm systems, that required remediation. To ensure enough funding to complete construction and preserve the 299 affordable housing units to be produced through this project, the County and State awarded FFA to close the project's funding gap. These awards were made in July 2024, when project construction was 79 percent complete. Construction has since been completed.

At the time that procurement contracts were bid out and entered into, the project development team had no reasonable expectation that BABA would apply to this project. Therefore, the project incorporated materials that were not BABA-compliant. Given that construction is now complete and units are occupied, it would be infeasible to remove and replace non-compliant products used in the project.

No FFA has been expended to date for this project. As an interim measure, and to ensure the project was completed, the Housing Authority of the County of Salt Lake (doing business as Housing Connect) temporarily advanced funds to the project. This waiver is necessary to allow the release of the HOME and HTF FFA, which will be used to repay the short-term advancement provided by

Housing Connect. This will maximize available resources, ensuring that this project remains financially sound and protecting the existing 299 affordable housing units. Additionally, this will allow Housing Connect to reinvest the funding used for the temporary advance in future affordable housing developments that will help alleviate Utah's critical shortage of affordable housing units.

Therefore, HUD has determined that it is in the public interest to grant a waiver of the BAP as applied to the New City Plaza Apartments affordable housing project. This waiver would relieve the Grantee of BAP compliance obligations due to the addition of HOME and HTF funds that were awarded to the project after construction was substantially complete.

Anticipated Impact if No Waiver is Issued

Failure to grant a waiver for this project could jeopardize the long-term financial viability of the project and result in the displacement of senior citizens from affordable housing. Additionally, it will jeopardize Housing Connect's ability to maximize the use of available funding for the construction of new affordable housing to address Utah's critical shortage of affordable units.

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: New City Plaza Apartments

Recipient Name: County of Salt Lake; State of Utah

Unique Entity Identifier (UEI): LN8HKX8GJFS6; JJKAPZHF5KB3

Federal Award Identification Number (FAIN): M-24-DC-49-0206; F-24-SG-49-0100

Financial Assistance Listing Name: HOME Investment Partnerships Program; Housing Trust Fund

Assistance Listing Number: 14.239; 14.275

Federal Financial Assistance Funding Amount: \$390,806.00; \$1,479,830.98 (Total: \$1,870,636.98)

Total Estimated Infrastructure Expenditures: \$38,806,650.00