

July 20, 2026

The Honorable Scott Turner

Secretary

U.S. Department of Housing and Urban Development

Submitted via Regulations.gov

re: Docket No. FR-6616-N-01, Request for Information Regarding Products and Categories of Products Used in Housing Programs Pursuant to the Build America, Buy America Act

Dear Secretary Turner:

Thank you for the opportunity to provide comments on the U.S. Department of Housing and Urban Development's (HUD's) Request for Information (RFI) Regarding Products and Categories of Products Used in Housing Programs Pursuant to the Build America, Buy America (BABA) Act.

The undersigned organizations support HUD's effort to "evaluate the potential need for short-term product specific waivers from BABA requirements if products are unavailable." Identifying and addressing known gaps in the domestic manufacturing market through product-specific waivers will significantly improve the BABA process by reducing the need for project-specific waivers. We ask HUD to further improve the process through the following key actions:

- staying BABA requirements for manufactured products during the RFI process,
- updating FAQs, and
- issuing new guidance.

Our recommendations support a transition from repetitive, project-by-project compliance toward a more timely, predictable, data-driven, and risk-based framework that advances both domestic manufacturing and affordable housing production.

Program	FY23 Q1	FY23 Q2	FY23 Q3	FY23 Q4	FY24 Q1	FY24 Q2	FY24 Q3	FY24 Q4	FY25 Q1
CDBG Formula Grants	11/15/22 Iron and steel					FY24 Obligation Date (Varies) Construction materials – Specifically-Listed		FY25 Obligation Date (Varies) Construction materials – Not Listed Manufactured products	
Healthy Homes*		2/22/23 Iron and steel						8/23/24 • All construction materials • Manufactured products	
Recovery Housing Program ("RHP") Grants				8/23/23 Iron and steel		FY24 Obligation Date (Varies) Construction materials – Specifically-Listed		FY25 Obligation Date (Varies) Construction materials – Not Listed Manufactured products	
All other HUD FFA**					2/22/24 Iron and steel			8/23/24 • All construction materials • Manufactured products	
HOME***								8/23/24 • Iron and steel • All construction materials • Manufactured products	

*Choice Neighborhood, Lead Hazard Reduction, and Healthy Homes Production Grants

**All other HUD FFA except HOME, Housing Trust Fund, and Public Housing FFA used for maintenance projects

***HOME, Housing Trust Fund, and Public Housing FFA used for maintenance projects

Stay BABA Requirements for Manufactured Products During the RFI Process

HUD phased implementation for iron, steel, manufactured products and construction materials through Fiscal Year (FY) 2024 via its above Phased Implementation Schedule.

Based on implementation to date, most sourcing challenges are within the manufactured products category. All items listed within the RFI, apart from wood trusses, fall under the manufactured products category. Developers and their partners have reported widespread difficulty sourcing all of the products within the RFI, as well as:

- Additional mechanical and plumbing equipment, including:
 - water heaters, boilers, pumps, expansion tanks, mixing valves, backflow preventers, thermostats, controls, ERVs/DOAS units, and related accessories.
- Appliances, blinds, and unit equipment.
- Engineered wood systems, including:
 - roof and floor trusses, truss plates, hangers, and related hardware. These are project-specific, critical-path items that cannot easily be substituted.
- Low-voltage, security, access control, and telecom systems, including:
 - intercoms, video entry, emergency call systems, networking equipment, card readers, door controllers, elevator phones, and similar components.
Suppliers typically cannot certify these systems at the component level.
- Windows, storefronts, exterior doors, balcony doors, and overhead doors. These products must meet strict performance, energy, accessibility, and warranty requirements and BABA-compliant alternatives are not available.

We request that a temporary stay of the Build America Preference (BAP) for all manufactured products begin immediately and apply to all FY 2026 and prior funding.

This will clear the backlog of waivers during HUD's review of the RFI responses and consideration of product-specific waivers, allowing critical, time-sensitive housing developments to proceed.

Moving forward, any product-specific waivers granted as a result of this RFI would be applicable for FY 2027 funding and beyond.

Update FAQs

We also ask HUD to update its [BABA Frequently Asked Questions](#) (FAQs). Official guidance on several important topics outside the scope of this RFI would be immensely helpful, including:

1. ***Clarification that the BAP does not apply to Furniture, Fixtures and Equipment (FFE).***

[OMB Memorandum M-22-11](#) states that the Buy America Preference does not apply to “equipment and furnishings” ... “that are used at or within the finished infrastructure project, but are not an integral part of or permanently affixed to the structure.”

However, HUD has not provided guidance on how this standard applies to common household items. In appraisal and real estate practice, furnishings and equipment are generally distinguished from building components based on whether they are permanently attached to the structure, integral to the building, and removable without damage.

Developers would benefit from specific guidance regarding common items such as appliances, ranges, blinds, furniture, and other FFE.

2. ***Guidance on the treatment of BAP funding that comes in after a project is already under construction.***

HUD should clarify that BAP does not apply when BABA triggering funding is added to a project that is already under construction. Requiring compliance after materials have been ordered or installed would be impractical, drive unnecessary costs and delays, and undermine the purpose of bringing projects to completion.

3. ***Guidance on the Simplified Acquisition Threshold (SAT).***

Does the current SAT of \$350,000 apply to the small grants waiver or should the SAT from when the waiver was published (\$250,000) be used?

4. ***Guidance on how many waivers should be submitted if a project contains multiple funding sources.***

A single waiver request should cover all funding sources within a project, as requiring multiple submissions would create duplicative paperwork for applicants and agency staff while reaching the same outcome.

5. ***Clarification that the de minimis waiver and project-/product-specific waiver are independent from each other.***

A project should not need to demonstrate it has taken advantage of the de minimis waiver before applying for a project- or product-specific waiver.

Issue New Guidance

Section 501(m) of recently enacted Pub. L 119-101, 21st Century ROAD to Housing Act, requires HUD to review its BABA guidance for the HOME program by January 7, 2027, and issue updated guidance by April 7, 2027.

We encourage HUD to expand the scope of its review and rewrite to include [Notice CPD-25-01](#) and [Notice PIH 2025-06](#). Updating guidance for just the HOME program would be a meaningful step forward, but it risks creating two different compliance frameworks for substantially similar housing activities. To the extent HUD identifies areas where existing guidance can be clarified or streamlined through its statutorily required HOME review, these improvements should be applied consistently across HUD programs.

New guidance should address several important issues:

1. *Compliance Certification Process and Reasonable Reliance Standard*

In many cases, manufacturers themselves are unable or unwilling to certify that a product meets one of the two key requirements: the total cost of domestically sourced components must be greater than 55 percent of the total cost of all components.

Several similar terms like Made in America, Made in the USA, and Buy American Act Compliant add to the confusion. The development community needs a clear certification process and a reasonable reliance standard. Contractors, owners, and developers should be able to rely on written certifications from manufacturers, suppliers, or authorized distributors without being expected to audit an entire supply chain.

2. *Define Availability*

Even when compliant items are available domestically, they are often unavailable in sufficient quantities or within specific timelines. In addition, many domestically available products do not come with sufficient warranties or comply with applicable code, Americans with Disabilities Act (ADA), energy efficiency, and other technical requirements imposed by funding sources.

3. *Waiver Review Timeline*

Affordable housing developments operate within tight financing structures and fixed timelines. Delays in securing BABA waivers increase land carrying costs, expose projects to labor and material price escalation, trigger adjusters under Low Income Housing Tax Credit investor agreements, and put developments at risk of missing

statutory placed-in-service deadlines. Each month of delay threatens project feasibility and ultimately reduces the number of affordable housing units delivered.

We request HUD and OMB set a 60- to 90-day timeline by which to respond to any waiver requests. A defined review period would provide greater predictability for applicants and promote timely, efficient administration of the waiver process.

4. *Increase the De Minimis Waiver Threshold*

The current 5% threshold for HUD's de minimis general waiver effectively operates as an all-or-nothing requirement. A project that is 94% compliant still cannot proceed, meaning the majority of compliant materials and labor are never utilized.

Increasing the threshold to at least 10% would better reflect market realities and allow projects to move forward when a small number of products remain unavailable, while still directing the vast majority of project spending toward domestically produced materials and products.

Conclusion

As HUD considers the information submitted through this RFI, we urge the Department to take practical near-term steps, including a temporary stay for manufactured products, additional FAQs and updated guidance. These actions would provide greater certainty and help keep projects moving forward while HUD evaluates longer-term solutions.

Thank you for your time and consideration of these comments. We appreciate HUD's efforts to better understand the implementation challenges associated with BABA and look forward to working with the Department to develop practical solutions that reduce unnecessary delays and support the development and preservation of affordable housing. Please contact Kaitlyn Snyder, Managing Director of the National Housing & Rehabilitation Association, with any questions or requests for additional information.

Sincerely,

Affordable Housing Developers

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|-------------------------------------|--------------------------------|
| 1. AHEPA Senior Living | 7. Ethos Development Partners |
| 2. Avesta Housing | 8. Ginosko Development Company |
| 3. Comprehensive Housing Assistance | 9. Gorman & Company |
| 4. CHN Housing Partners | 10. Harborlight Homes |
| 5. Eagle Point Companies | 11. Homes for America |
| 6. Edison Community Partners | 12. Kittle Property Group |
| | 13. Lincoln Avenue Communities |

14. MHP
15. Michigan Community Capital
16. Model Group
17. National Church Residences
18. New Community Partners
19. NHP Foundation
20. Oberer Companies
21. Pennrose
22. Pivotal Housing Partners
23. Preservation of Affordable Housing
24. Renewal Housing Associates
25. RMDX Development
26. Searfoss Development
27. Shelborne Development

28. Slavik Enterprises
29. Somerset Development Company
30. Spire Development
31. St. Mary Development Corporation
32. TFG Housing Resources
33. The Michaels Organization
34. The NRP Group
35. The Pacific Companies
36. Trinity Financial
37. Ulysses Development Group
38. USA Properties Fund
39. Volunteers of America National Services
40. WinnCompanies

Architecture/Construction/Procurement Companies

41. BKM
42. CCG Residential Construction
43. Dellbrook Construction
44. Harkins Builders
45. Innova Project Management

46. OneSource Procurement
47. Shopworks Architecture
48. Southway Builders
49. Urban Practice

National Organizations

50. Affordable Housing Tax Credit Coalition
51. American Institute of Architects
52. Council of State Community Development Agencies
53. LeadingAge
54. Local Initiatives Support Corporation
55. National Apartment Association
56. National Association of Home Builders
57. National Association of Housing and Redevelopment Officials
58. National Association of State & Local Equity Funds

59. National Council of State Housing Agencies
60. National Housing & Rehabilitation Association
61. National Multifamily Housing Council
62. National NeighborWorks Association
63. Public Housing Authorities Directors Association
64. Stewards of Affordable Housing for the Future
65. Up for Growth

State/Local Organizations

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| 66. Auburn Housing Authority | 75. Mansfield Metropolitan Housing Authority |
| 67. Clermont Metropolitan Housing Authority | 76. Miami Metropolitan Housing Authority |
| 68. Cook Inlet Housing Authority | 77. Ohio Housing Authorities Conference |
| 69. Crawford Metropolitan Housing Authority | 78. Partnership for Strong Communities |
| 70. Idaho Housing and Finance Association | 79. Portland Housing Authority |
| 71. Indiana Affordable Housing Council | 80. Seneca Metropolitan Housing Authority |
| 72. Lorain Metropolitan Housing Authority | 81. Tennessee Developers Council |
| 73. Maine Affordable Housing Coalition | 82. Wayne Metropolitan Housing Authority |
| 74. Maryland Affordable Housing Coalition | |

Partners – Accountants/Consultants/Brokers/Investors/Lenders/Syndicators

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|---|----------------------|
| 83. BridgeWater Real Estate Brokerage | 88. Katopody |
| 84. Dominion Due Diligence Group | 89. OCCH |
| 85. Cinnaire | 90. R4 Capital |
| 86. Grandbridge, a subsidiary of Truist | 91. The Summit Group |
| 87. Grow America | |