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.

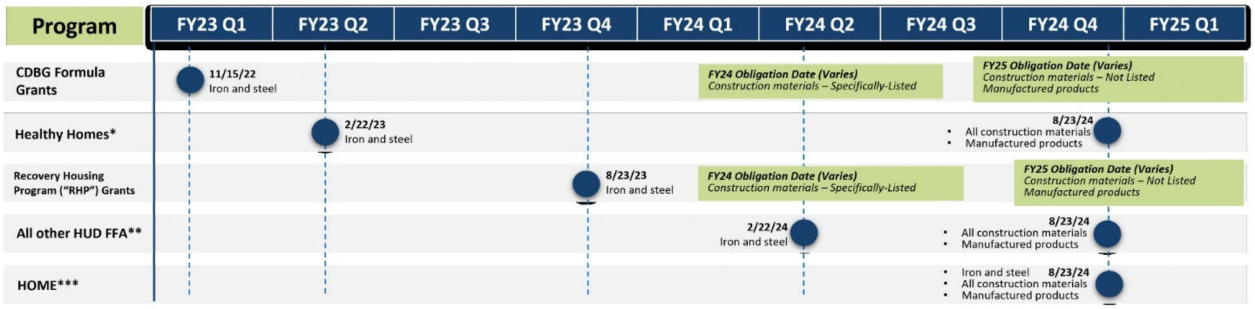
The undersigned organizations support HUD's effort to "evaluate the potential need for short-term product specific waivers from BABA requirements if products are unavailable." Identifying and addressing known gaps in the domestic manufacturing market through product-specific waivers will significantly 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.

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 below Phased Implementation Schedule.



*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
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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 a 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.

6. ***Guidance that the BAP does not apply to for-sale, single-family housing with 5 or more units funded through a single project award.***
   Notice CPD-25-01 applies BABA to housing projects with five or more units but does not define "project." For homeownership developers, it is unclear whether multiple single-family homes funded through a single award should be treated as individual private homes or aggregated into a single "project" for purposes of the five-unit threshold.

Issue New Guidance

Section 501(m) of recently enacted Pub. L 119-NUMBER, 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 compliant majority of 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,