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CHIEF EXECUTIVE OFFICER
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Regulations Division, Office of General Counsel
Department of Housing and Urban Development
451 7th Street SW, Room 10276
Washington, DC 20410-0500

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 (BABA) Act

Dear General Deputy Assistant Secretary Richardson,

The Council of Large Public Housing Authorities (CLPHA) appreciates the opportunity to provide HUD with additional feedback on Build America, Buy America (BABA)'s costly impacts on affordable housing development.

CLPHA is a non-profit organization that works to preserve and improve public and affordable housing through advocacy, research, policy analysis, and public education. Our membership of more than eighty-five large public housing authorities (PHA) own and manage nearly half of the units in the nation's public housing program, administer more than a quarter of the subsidies in the Housing Choice Voucher Program, and operate a wide array of other housing programs. CLPHA supports the nation's largest and most innovative PHAs that own and manage housing and vouchers for nearly 3.3 million households by advocating for the resources they need to solve local housing challenges.

I. Background

BABA was enacted in 2022 as part of the Infrastructure Investment and Jobs Act. During the initial promulgation of BABA regulations for HUD programs, HUD sought public input and CLPHA submitted comments on several BABA information requests in 2022. CLPHA offered comments in early 2023 to OMB as it determined the scope of applicability across federal financial assistance programs. CLPHA and our member PHAs strongly support the goal of BABA to establish and support American industries, as outlined in a April 13, 2023 letter. As implementation continued, BABA requirements were gradually applied across HUD programs in 2023-2024, CLPHA members began reporting BABA's requirements were increasing operating and development costs, slowing and halting the progress of affordable housing development, disincentivizing contractors from bidding on projects, and reducing the number of homes that can be developed or rehabilitated with limited available funding. To that end, CLPHA submitted comments in response to the April 2024 Request for Information on BABA. As CLPHA has continued supporting its members in complying with the requirements, PHAs are reporting that in addition to the high cost differential of materials, the schedule and administrative burden associated with compliance and waiver approval is the primary cost driver. Members of Congress from both parties have heard and acknowledged that BABA requirements are increasing costs, in particular during a December 2025 congressional hearing. Further, during a FY2027 Appropriations THUD budget hearing, Senate Full Committee Chair Susan Collins (R-ME) and THUD Subcommittee Chair Cindy Hyde-Smith (R-MS) raised concerns about BABA impeding housing development and putting housing finance tools at risk. Both Senators noted BABA as an example of the importance of streamlining housing programs. For the many reasons detailed in this letter, CLPHA contends that HUD-assisted housing should be exempt from BABA.

BABA's requirements have imposed an unfunded mandate on PHAs. BABA requirements are regularly causing a 15-25% cost increase on most subject projects and can cause as much as a 40% increase in Total Development Costs (TDCs).[1] PHAs are already working hard to meet the need for affordable housing in communities, given the insufficient federal funding and an inflationary environment. Costs for construction materials have been increasing dramatically, and inflationary pressures plus supply chain-induced cost increases have added extreme pressure to the already strained resources of PHAs. CLPHA is also concerned that 'American-made' product labels do not necessarily indicate that the product meets the requirements of BABA. Suppliers and contractors are not prepared to meet the increasing demand resulting from BABA compliance. Lack of market readiness is hindering PHAs' abilities to fulfill their missions to deliver affordable housing by increasing project costs and completion time. Exempting all HUD-assisted housing from BABA will alleviate these issues.

Short of a full exemption, CLPHA recommends HUD create product-category waivers and adopt the additional reforms detailed in Section V of this letter.

PHAs are experiencing material availability constraints, long waits for waiver requests, lengthy HUD review/approval timelines, schedule delays, and increased costs as a result. This RFI seeks information on the status of the domestic market for BABA-compliant products and categories used in HUD-assisted housing. Below are details of categories of materials, components, and manufactured products which are largely unavailable to procure from domestic sources or are more expensive, all from the perspective of CLPHA members.

II. Domestic Materials Sourcing and Manufacturing

CLPHA members, their vendors, and their contractors report having to greatly alter their procurement practices to comply with BABA. CLPHA members report that materials unavailable in sufficient domestic quantities to meet the BABA requirements or that are incurring unreasonable cost increases include: (i) HVAC systems, (ii) mechanical systems, (iii) plumbing fixtures, pipes, and fittings, (iv) electrical components, integrated technology, and appliances, (v) smoke detectors and fire alarm systems, and (vi) certain metals. Below are subsections detailing each product category.

[1] CLPHA

A. *HVAC systems, heat pumps and related systems*

Heating, ventilation, and air conditioning (HVAC) equipment, heat pumps, and variable-flow refrigerant are rarely available from domestic sources. Numerous PHAs have been unable to find these critical components from BABA-compliant sources, as evidenced by several waiver requests for them.[2] [3] As one example, a large CLPHA member PHA needed to procure 2,402 Gas Connector Kits for dryers, stoves, and wall heaters. The cost of a BABA-compliant kit was $44.07, whereas the cost of a non-BABA compliant kit was $16.64. That means the total BABA compliant cost of that single procurement would have been $105,856, while procuring non-BABA compliant kits would have cost $39,969.[4] This would have represented a 165% cost markup to achieve BABA compliance.

B. *Mechanical systems*

The domestic market is not ready to meet the need for mechanical systems like ventilation systems with motors and exhaust fans. Waiver requests have been received for systems like elevators and fan motors for bathrooms.[5] [6] Hardware such as passage levers and door deadbolts are also unavailable in sufficient domestic quantities.[7] Additional examples of products largely produced outside the U.S. that CLPHA members regularly procure include heating plant materials and products, steam lines, playground equipment, elevator cab components, water tanks, and safety surfaces. These types of mechanical systems are critical components in nearly all affordable housing projects, and requiring PHAs submit waivers for these items for each project is onerous and burdensome.

C. *Plumbing fixtures, equipment and supplies*

Plumbing fixtures such as faucets and plumbing supplies such as pipes and fittings are commonly unavailable from domestic sources. Nonavailability waivers have been submitted for bathroom components like grab bars, shower and tub fixtures, drains, and sink fixtures. One such nonavailability waiver request was for $55,000 worth of plumbing fixtures and accessories predominantly sourced from China, which comprised just a fraction of the project's overall $17 million infrastructure expenditure.[8]

D. *Integrated technology, electrical systems and appliances*

Systems with integrated technology (IT equipment like modems and wi-fi access points, sub-systems, interconnected systems, movement control, switching, etc.) and "smart" appliances are often manufactured primarily outside of the United States and are unlikely to meet the 55% "domestically procured" requirements due to preponderance of internal electronic components originating from foreign sources. Systems with integrated technology and circuits often rely on semiconductors and 'chips' that originate from Taiwan, Japan, and South Korea. In the uncommon cases where these products are domestically assembled, they almost always include components from foreign sources.

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[2] Project-Specific Nonavailability Waiver of BABA Requirements for Variable Refrigerant Flow Heat Pump Systems

[3] Project-Specific Nonavailability Waiver of BABA Requirements for HVAC Equipment

[4] CLPHA

[5] Project-Specific Nonavailability Waiver of BABA Requirements for Carpentry Hardware, Elevator, Lighting and Electrical, Fire Suppression System, and Plumbing Items

[6] Project-Specific Nonavailability Waiver of BABA Requirements for Bathroom Fan Motors

[7] Project-Specific Nonavailability Waiver of BABA Requirements Smart Deadbolts and Passage Levers

[8] Project-Specific Nonavailability Waiver of BABA Requirements for Plumbing Equipment

Any tariffs on computer components and/or semiconductors will further raise costs for these items. Many waiver requests are being submitted for integrated technology systems and appliances like water heaters, refrigerators, ovens, ranges, range hoods, and dishwashers. Additionally, electrical components such as switch gears, fixtures and fittings, transformers, wiring and cabling are also frequently unavailable from domestic entities.[9]

E. Smoke detectors and fire alarm systems

Smoke detectors and fire alarm/suppression systems are often unavailable from domestic sources, as several nonavailability waiver requests have noted.[10] [11] For example, a large PHA wanted to procure 20,000 carbon monoxide/smoke detectors using BABA-subject funds, but because domestic compliant models were not available, the PHA elected to purchase them using other non-federal funding sources not subject to BABA rather than try to go through the onerous waiver process.[12]

F. Metals used in manufacturing

Many companies that supply non-ferrous metals to the U.S. operate on both sides of the border between the U.S. and Canada. Since manufacturers often comingle inventory, it has proven difficult to trace the origin of specific products. PHAs' procurement teams must try to account for which side of the border a majority of production occurred and whether at least 55% of the costs of components in manufactured items originated from domestic sources. Canada and the U.S. also share a highly integrated aluminum market. Domestic aluminum producers rely on a mix of domestic, Canadian, and globally sourced primary aluminum, of which 75% represents U.S. imports; the U.S. accounted for less than 2% of global primary aluminum production.[13] Public interest waivers are being received for steel and other metals as projects seek to maximize limited available funds.[14]

III. BABA Is Delaying and Halting Projects Altogether

Many CLPHA members are currently engaged in efforts to revitalize and/or reposition public housing properties, and BABA compliance requirements are complicating these efforts. These projects are typically a multi-year effort spread over several phases. Materials are generally sourced and purchased based on expected delivery schedules that may range up to a few months. Not all BABA-compliant construction materials can be sourced or purchased (much less stored) in advance of project commencement; generally, this occurs at much later dates following contract execution and construction scheduling. Expecting developers, contractors, and subcontractors to source all BABA-compliant materials of sufficient quality and quantities at one time, and in some cases before contract execution, is an unreasonable expectation and does not guarantee materials' availability when they are needed. CLPHA members report these requirements also

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[9] Project-specific Nonavailability Waiver of BABA Requirements for Circuit Breakers

[10] Project-Specific Nonavailability Waiver of BABA Requirements for an Access Control System, a Fire Alarm System, and Plumbing Equipment

[11] Project-Specific Nonavailability Waiver of BABA Requirements for Carpentry Hardware, Elevator, Lighting and Electrical, Fire Suppression System, and Plumbing Items

[12] CLPHA

[13] U.S. Aluminum Manufacturing: Industry Trends and Sustainability | Congressional Research Service

[14] Project-Specific Public Interest Waiver of BABA Requirements for Iron and Steel

disincentivize contractors from bidding on projects at all. BABA's requirements have introduced uncertainty in PHAs' development timelines, which has also increased costs and negatively impacted PHAs' abilities to build and make needed repairs to affordable housing – all of which is contrary to the public interest.

A. Expected delivery timeframes, supply chain shortages

If a BABA-compliant product is not available or is inconsistent with a project's construction sequencing, it can delay the development schedule. The uncertainty of waiver approval and the unclear timeline for waiver approval further complicate project timing. CLPHA members report that project timeframes are longer due to requirements to source BABA-compliant materials and request waivers when they are unavailable.[15] Meanwhile, most remodelers are experiencing skilled trade labor shortages, exacerbating the issues faced by PHAs rehabilitating properties with BABA-compliant materials.[16] For example, more than one-third of housing providers experienced serious shortages of windows, home doors, and garage doors, while more than a fifth reported serious shortages of HVAC equipment and appliances. Such delays drive up financing costs and risk the availability of labor to complete a project, which will be exacerbated by the scarcity of domestic products.

B. Contractors' capacity constraints impact project delivery time

Contractors' capacity constraints are increasing near-term construction and project delivery timeframes. Contractor firms are already having difficulty hiring and retaining workers, and the new BABA obligations have further burdened these providers who are trying to keep up with industry demands. A survey of construction contractors conducted in 2026 revealed dampened expectations, and contractors reported impacts from tariffs, enhanced immigration enforcement, and continued difficulties finding well-qualified workers.[17] The U.S. is expected to be short 550,000 plumbers by 2027, nearly 30% of union electricians are near retirement age, more than 1 in 5 construction workers are 55 or older, and construction job openings have surged more than 50% from 287,000 in February 2019 to 441,000 in February 2024.[18] These staffing difficulties among skilled trades will inevitably lead to longer construction timeframes for housing projects.

C. PHAs lack mechanisms to verify product compliance

The process of certification of US-sourcing is a new and unfunded mandate that PHAs are required to take on. PHAs have not generally been subject to Buy American requirements for all projects, and procurement teams have not required suppliers to disclose the sourcing of manufactured products. Major suppliers such as HD Supply and Grainger have "custom catalogs" that allow users to filter US-made products, but smaller suppliers such as Ganahl Lumber still lack this filter option. PHAs and contractors lack existing mechanisms to filter domestic products. Furthermore, it is currently unclear whether major suppliers' and manufacturers 'American-made' product labels indicate that the product meets the specific standards of BABA. PHAs and their procurement contractors

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[15] CLPHA
[16] Improving America's Housing 2025 | Harvard JCHS
[17] Contractors Have 'Dampened' Expectations For 2026 Amid Worries About The Economy, Policy Uncertainties | Associated General Contractors of America
[18] Trade jobs: Why is there a plumber and electrician shortage? | The Hill

are facing difficulties determining the *percentage of domestic production* for any given manufactured product to ensure it meets the 55% threshold under 2 CFR 184.3. Consider the difficulty of determining whether at least 55% of the costs of components in any given manufactured product containing metal, copper, wood, or glass were domestically sourced. Product categories detailed in Section II includes foreign-sourced components, and even products assembled in the U.S. fail to satisfy 2 CFR 184.3.

PHAs and contractors simply do not have the staff capacity to determine if all the components being purchased meet the 55% requirement. Many PHAs report having to hire consultants to help them comply.

This underscores the need for certainty that a manufactured product with an 'American-made' label meets the 55% requirement. Absent this, time spent on sourcing compliant materials will continue to increase, which will lead to higher construction costs and likely project delays. HUD should expect numerous waiver requests for many types of construction materials, appliances, mechanical systems, and fixtures unless it provides certainty that any product with an 'American-made' label meets BABA's requirements.

D. Lengthy waiver processing time extends project completion timelines

Consider the need to locate BABA-compliant construction materials, and longer delivery lead times, and the fact that building a structure with 20 or more housing units takes nearly 1.5 years on average.[19] In instances when BABA-compliant products are unavailable or not available in a reasonable time, PHAs must also complete sourcing and due diligence activities, prepare documentation of non-availability or excessive costs as required by HUD, prepare and submit BABA waiver requests, await the minimum 15-day public comment period on the waiver request, respond to questions raised, and await a waiver request decision that is not guaranteed. When waiver requests take several months to be processed, it can shutter construction progress, cause subcontractor demobilization due to an inability to work, and result in the loss of employment for many (including HUD Section 3 workers). Equipment rental times and interest-carrying cost periods would be extended. Compound that by the likelihood of multiple requests on each project, and the delay costs will be significant. The financing cost of these delays is discussed in Section IV.A.

IV. Project Cost Impacts of BABA Compliance

Each of the compliance burdens and delays described in Section III caries a direct cost. This section quantifies those costs: the premium BABA adds to project budgets at the earliest planning stages, the inflationary market conditions that compound it, the compliance costs contractors pass through to PHAs, and the resulting loss of competitiveness for funding awards.

A. Costs of housing projects and examples

During the planning and predevelopment phase of all projects, a feasibility analysis is conducted that considers the historical costs of developing similar projects, with adjustments made for rising costs of labor, materials, and more. At this stage, actual prime and subcontractor contracts have not yet been awarded and all construction

[19] What Factors Affect How Long It Takes to Build and Convert Multifamily Housing? | Urban Institute

materials cannot and have not been identified, sourced or purchased, so estimates of future pricing and availability cannot realistically be made. According to CLPHA members, during this phase projected project development cost and TDC will need to account for BABA compliance are adding the 15%-40% premium noted in Section I to project cost estimates.[20] The reasons for this wide range include the uncertainty over materials delivery times, the labor costs associated with finding BABA-compliant materials, the cost for BABA-compliant materials at the time of need, the time required to apply for and secure BABA waivers when needed, the administrative time and expense associated with these activities, and extra construction financing interest carrying costs associated with waiver request delays. These carrying costs alone are substantial: on a project with an outstanding $30 million construction loan and a borrowing rate of 7%, just a one-month delay would cost that project $175,000 in additional interest charges.

B. Increasing costs of construction

Several economic indicators show recent cost increases in construction materials. The Producer Price Index (PPI) list of inputs to multifamily residential construction is published monthly by the U.S. Bureau of Labor Statistics (BLS). BLS' PPI, the costs of inputs to multifamily residential construction, reached an all-time high in May 2026,[21] with copper and brass mill products among the costliest of materials.[22] Lumber prices are only continuing to increase; as of March 2025, the framing lumber composite price was 15.6% higher than it was a year prior.[23] The cost increases due to tariffs on aluminum, steel, and copper will have a catastrophic impact on affordable housing construction and redevelopment, rendering many projects financially infeasible. Tariffs on semi-finished copper imports, steel, and aluminum under Section 232 of the Trade Expansion Act of 1962 remain in effect. Suppliers who can furnish BABA-compliant materials are charging a premium for them in response to heightened demand but at no greater value to the project or the public. Federal Reserve data confirm that this is already happening for manufactured products: the PPI for Total Manufacturing Industries reached a record high of 283 in May 2026, up from 186 in April 2020.[24] As demand for domestic materials rises while tariffs and inflation continue, the corresponding scarcity will cause these already-high prices to skyrocket.

BABA will exacerbate these costs since it will take contractors time and budget to document and certify their compliance with BABA's requirements. Those cost increases will be passed along to PHAs and will reduce funding available for needed housing development and rehabilitation projects. According to a survey of 661 construction contractor firms, an alarming 73% of firms have "passed on some or all of our additional

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[20] CLPHA

[21] Producer Price Index by Commodity: Inputs to Industries: Net Inputs to Multifamily Residential Construction, Goods | FRED | St. Louis Fed

[22] Construction PPI Charts Data | NMHC

[23] Framing Lumber Prices | NAHB

[24] Producer Price Index by Industry: Total Manufacturing Industries | FRED | St. Louis Fed

costs." [25] Contractors are already passing on cost increases to PHAs, meaning taxpayers are paying more for less housing units.

C. Need for standardized contractual provisions

Contractors are being forced to add a premium to their bids due to BABA compliance requirements. Without standardized contractual provisions and streamlined compliance requirements, fewer contractors are bidding on projects due to the cost and time increases associated with BABA, and risk noncompliance from the lack of guidance provided by standard contractual provisions. It requires extra (unfunded) administrative time for PHA staff to build BABA-compliant language into RFPs and contractual provisions. PHA staff are having to coordinate more closely with their construction contractors regarding the specific materials they purchase to build or renovate properties. There is a need for standard contractual provisions for PHAs to use in RFPs for construction. HUD provided basic sample language for PHAs to use in RFPs and contract documents to provide clarity to contractors in PIH 2025-06, but this should be expanded.

D. BABA cost increases jeopardize competitiveness for funding awards

These cost increases also threaten PHAs' access to capital. State and local funders increasingly score affordable housing applications on cost containment. In California, for example, funding agencies award points and tiebreaker scores to projects with lower total development costs per eligible basis. BABA-driven TDC increases therefore put HUD-assisted projects at a direct competitive disadvantage against other affordable housing development when applying for funding awards.

V. Recommendations

1. Exempt HUD-assisted Housing from BABA

Building new and revitalizing existing affordable housing as quickly and as efficiently as possible is in the public interest. Exempting all HUD-assisted housing from BABA requirements is necessary relief so PHAs can fulfill this mission. HUD has the authority to request a general BABA waiver from OMB if the Department determines it is in the public interest to do so. Even a temporary suspension of BABA and resumption of the public comment process in the interim would be in the public interest. Beyond a full exemption, CLPHA's recommendations to improve compliance burdens are below:

2. Create product-category waivers

CLPHA recommends HUD create product-category waivers. The current approach of making individual PHAs submit waivers for each project creates unnecessary duplication, especially when multiple projects use the same domestically unavailable materials. The three types of product-specific waivers PHAs can request are proving unhelpful: as of late June 2026, HUD/OMB have approved only a few dozen waiver requests, and the lengthy review and approval timeframe is forcing PHAs to scale back plans or find alternative sources of capital to fund projects. Many PHAs bulk-order the same or very similar products, which would currently require submitting a waiver request for each bulk order. Creating waivers for entire categories of products would mitigate the administrative

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[25] Association of General Contractors of America

burden of compliance in such cases and reduce HUD/OMB staff time spent reviewing and approving duplicative waivers for the same classes of products/materials.

For instance, OMB should create a categorical waiver for integrated technology systems. Such a waiver could even be temporary. While the passage of the CHIPS and Science Act of 2022 (Pub. L. 117–167) will increase domestic production of many critical electronic components, it is taking many years for domestic production to ramp up to adequate levels to meet the nationwide demand for these components. Requiring these products be U.S.-made will be a hindrance in the short term. There is precedent: The National Telecommunications Information Administration and other agencies previously granted similar waivers for information technology products (less than 55% U.S.-made) that was included in the 2009 American Recovery and Reinvestment Act. Additionally, any tariffs should exempt technology systems to avoid cost increases for these vital components.

3. *Create a nationwide database of compliant products and standardize American-Made labels*

CLPHA recommends that the Made in America Office create 1) a nationwide database of frequently purchased BABA-compliant materials, and 2) a standardized 'American-made' label that guarantees that the product meets BABA's requirements. This would eliminate confusion and give procurement specialists certainty that purchasing a product with an 'American-made' label will comply with BABA and won't require any additional research or due diligence beyond standard documentation of the purchase, and help manage costs by reducing staff time needed. PHAs and their contractors should be able to rely on an official certification that a product is made in the U.S. to the standards of BABA without having to conduct an arduous investigation of each individual purchase. To that end, HUD should work directly with the National Institute of Standards and Technology (NIST), manufacturers, and suppliers to ensure that 'American-made' labels are only applied to products that meet BABA's specific requirements; the cost of compliance certification should be borne by the federal government, not PHAs.

4. *Increase the de minimis waiver percentage*

The current de minimis waiver only allows for non-compliant products to be used if their total cost is no more than 5% of the total applicable cost of the project, up to a max of $1 million. This should be increased to at least 10% of total project costs, or a max of $5 million. This threshold would allow for a greater percentage of costs to be exempted, stretching PHAs' limited resources to build more affordable housing. Other affordable housing organizations, along with CLPHA, have recently advocated for this threshold to be raised to 10%. CLPHA has asked for this threshold to be raised since the de minimis waiver was first introduced.

VI. Conclusion

Thank you for the opportunity to comment on these regulations and their impact on the residents our PHA members serve. We look forward to a continuing dialogue with HUD and OMB on the Build America, Buy America Act.

Sincerely,

La Shelle Dozier
CEO
Council of Large Public Housing Authorities