July 20, 2026

Regulations Division
Office of General Counsel
Department of Housing and Urban Development
451 Seventh Street SW
Washington, DC 20410

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

To Whom It May Concern:

Thank you for the opportunity to provide feedback to HUD on the Build America, Buy America Act (BABA), which establishes a domestic procurement requirement for construction and manufacturing products, as well as all iron and steel products, used in the construction, alteration, maintenance, and repair of infrastructure in America.

About LeadingAge

We represent more than 5,300 nonprofit and mission-driven aging services providers serving older adults and touching millions of lives every day. From our national headquarters in Washington, DC, and in collaboration with our state partners representing members active in 50 states, the District of Columbia, and Puerto Rico, we use advocacy, education, applied research, and community-building to make America a better place to grow old. Our membership encompasses the entire continuum of aging services, including skilled nursing, assisted living, memory care, affordable housing, retirement communities, adult day programs, hospice, Programs of All-Inclusive Care for the Elderly (PACE), and home-based care. We bring together the most inventive minds in the field to lead and innovate solutions that support older adults wherever they call home. For more information, visit leadingage.org.

# # #

America is in the midst of a deep affordable housing crisis, and as the leading voice for aging in America, LeadingAge calls for urgent action to bring new affordable, service-enriched units onto the market so that older adults can age in community. Like HUD, we support public-private partnerships to guide expansion of affordable senior housing options across the country. However, the addition of infeasible product sourcing requirements (like those under BABA) exacerbates existing barriers to affordable housing development and preservation, including scarce federal resources, major ongoing supply chain disruptions, and regulatory and financial complexity.

In our 2022 comments to HUD on the proposed implementation of BABA, we warned that "applying the new [Build America Preference] to the Section 202 capital advance, HUD-held housing loans, HOME and CDBG funds, and other much-needed affordable senior housing programs could effectively halt new HUD-funded senior housing and stall the recapitalization of the existing affordable housing stock. All in all, applying the requirement to HUD programs could jeopardize affordable housing options even as housing cost burdens skyrocket."[1]

In fact, since BABA requirements began to take effect in 2024 for certain HUD-assisted multifamily housing developments utilizing HUD funding, such as Section 202 Supportive Housing for the Elderly, the Green and Resilient Retrofit Program, and the HOME Investment Partnerships Program, LeadingAge members have reported such steep increases in regulatory compliance costs due to BABA that, in some cases, the entire development has stalled – or switched from an affordable housing development to a market rate development that forgoes federal housing subsidies.

With two out of every three eligible older adult renter households remaining housing-unassisted,[2] the country cannot afford to lose a single new or existing unit of affordable housing. LeadingAge therefore urgently requests that HUD exempt affordable housing funding from BABA applicability – particularly those federal programs that finance privately-owned, federally-assisted rental housing, which should already be exempt under congressional intent of the Infrastructure Investment and Job Act (IIJA).

In the absence of an affordable housing exemption for BABA requirements, HUD should implement the broadest waivers possible under the Office of Management and Budget's (OMB) guidance for the implementation of BABA, including waivers by product across all development projects.[3] Today, in the absence of product-specific waivers, each project submits individual waivers for each applicable item under the development, down to gaskets and hardware. The waivers, if approved by HUD (typically after a lengthy delay of at least six to nine months), do not carry over to the next project using the exact same product, despite the fact that HUD has already acknowledged the unavailability of the product using domestic production. We therefore call on HUD to reform its waiver process, and to delay any BABA requirements for affordable housing developments moving forward in the meantime.

Below, please find examples from our membership of the regulatory compliance costs and project delays resulting from BABA requirements on privately-owned affordable housing developments. Thank you for your urgent action to exempt housing from BABA applicability or to waive unavailable products from domestic sources restrictions.

Build America, Buy America: Infeasible Requirements

Like HUD Secretary Turner and President Trump, we support feasible requirements to spur the domestic manufacturing and construction economy. However, applying BABA requirements to affordable housing programs is jeopardizing affordable housing options even as housing cost burdens skyrocket, causing affordable housing development – a driver of economic success and stability for American workers – to stall.

[1] July 14, 2022, https://leadingage.org/leadingage-calls-for-affordable-housing-exemption-from-new-buy-america-requirement/

[2] Department of Housing and Urban Development (HUD) custom tabulations of the 2019 American Housing Survey and CBPP tabulations of 2018 HUD administrative data, https://www.cbpp.org/research/housing/three-out-of-four-low-income-at-risk-renters-do-not-receive-federal-rental-assistance

[3] OMB M-22-11 "Initial Implementation Guidance on Application of Buy America Preference in Federal Financial Assistance Programs for Infrastructure"

The LeadingAge membership is already facing dire consequences because of BABA implementation, with some of them reporting cost increases of up to 20%:

- A LeadingAge member in rural America is redeveloping a factory building currently in disrepair to create new, affordable housing for older adults, members of the local workforce, and those displaced by natural disasters. The project uses a variety of federal housing funding sources, including Section 202, to ensure rents are affordable for very low income older adults. The housing provider reported that it has been very difficult to find BABA-compliant products that still meet the desired design intent. The currently available products are for industrial use, not for the Multifamily Housing sector. The significant projected cost increases due to BABA requirements are threatening to stall the project.
- A LeadingAge housing member based in the Midwest, which serves thousands of older adults across the United States, similarly reported significant domestic availability gaps in its standard package of manufactured materials, such as door hardware, plumbing fixtures, fire alarms, and cooling systems. The new BABA compliance hurdles are costing significant staff time to identify unavailable products and to request waivers that take more than six months each to receive approval.
- A Massachusetts-based LeadingAge member developing a critically-needed affordable senior housing project paired with community resources reports a delay of nine months on the project, paired with over $1 million in additional project costs, all because of BABA requirements. The increased costs could derail the project entirely, or the project can forgo much-needed services and scope in order to absorb the new costs.
- Housing developers in Rhode Island and Hawaii, both developing housing for special needs populations, are faced with BABA compliance costs triggered by federal funding awards, and yet those additional compliance costs are higher than the amount of the federal awards they received for the projects. Having found these hurdles to be insurmountable, these developers are now considering returning the federal awards and pivoting away from the original housing projects they spent years getting off the ground.

Because of the known gap in the domestic production for necessary products, HUD should acknowledge the infeasibility of compliance for affordable housing projects and exempt them from BABA, or pause the applicability while HUD reforms the waiver process.

LeadingAge strongly supports the Administration’s goal of addressing housing unaffordability and we look forward to working together to advance affordable, service-enriched housing options for older adults. A first step is to exempt affordable housing from BABA requirements at least temporarily while reforming the waiver process and allowing the domestic production economy to catch up to new demands.

Thank you for your review and consideration of these comments. Please address any questions to Juliana Bilowich (jbilowich@leadingage.org).

Sincerely,

Juliana Bilowich
VP, Housing Policy