October / November xxx, 2025

The Honorable Mike Flood
Chairman
Subcommittee on Housing and Insurance
United States House of Representatives

The Honorable Emanuel Cleaver II
Ranking Member
Subcommittee on Housing and Insurance
United States House of Representatives

Dear Chairman Flood and Ranking Member Cleaver:

We are writing on behalf of a broad coalition representing affordable housing developers, lenders and investors, architects, local officials, and advocacy organizations. We are concerned about the detrimental impact of the Build America, Buy America (BABA) Act requirements as currently applied to all privately operated housing projects funded through HUD's programs.

While we appreciate the intent underlying BABA and similar programs meant to promote domestic manufacturing and supply chain resilience, BABA compliance for HUD funded privately operated projects is incompatible with the timely and affordable delivery of new affordable housing. Given the Administration's and congressional support of eliminating the housing shortage crisis, the balance of policy priorities requires adjustment.

To ensure affordable housing projects funded by the government remain feasible, we urge the Committee and House sponsors **to include categorical BABA exemption language for any privately operated project receiving HUD funds in any housing and community development package.**

Impact of BABA on Affordable Housing

BABA requires that HUD-funded housings project with five or more units source nearly all manufactured and construction products domestically, unless a waiver is obtained. This is required even though current OMB guidance states federal agencies should exempt privately owned housing projects.

A typical affordable multifamily project faces non-compliant material costs that greatly exceed the "de minimis" threshold. For example, a typical project requires upwards of 75–100 product-specific waivers, amounting to approximately 25% of all project materials.

The waiver process is administratively expensive, time consuming and difficult. Each product may require a separate waiver, necessitating substantial market research, extensive paperwork, and long, unpredictable review by HUD with no guarantee of approval. HUD is currently not equipped to process this volume, especially after recent staffing reductions.

The preparation of waiver documentation takes months while waiting on HUD for determinations can delay closings by six months or more, risking other funding sources and investor confidence. This timeline uncertainty alone drives up project costs and jeopardizes entire projects.

Why Categorical Exemption Is Necessary

The BABA compliance regime, by imposing unworkable processes, timelines, and costs, effectively blocks using HUD's financial assistance programs for new affordable housing development or preservation transactions. Without meaningful waiver approvals, investors, developers, and municipal partners are unable to build affordable, BABA compliant housing and close transactions. These administrative and financial impositions fall hardest on the projects most needed in high-cost and underserved communities. This will impact every community utilizing HUD programs for affordable housing projects.

Partial fixes, such as raising the "de minimis" threshold or allowing projects to self-certify product waivers, are insufficient; only a categorical statutory exemption ensures these essential housing investments remain feasible, scalable, and affordable.

We respectfully urge that categorical language exempting all projects receiving HUD funds from Build America, Buy America requirements be added to any housing and community development package.

Thank you,

American Institute of Architects

Coalition Members Alphabetical