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## HOUSING MATTERS

# 'Buy American' Would Have Exacerbated Housing Shortage

### HUD Temporarily Exempts Affordable Housing from Infrastructure Law

BY SUSAN GITTELMAN  
SPECIAL TO BANKER & TRADESMAN



The \$1.2 trillion Infrastructure Investment and Jobs Act, passed last year, contained something called the Buy American, Build America Act that established a Buy America Preference,

known as BAP.

After much wrangling, it passed with bipartisan support and provided money for broadband access and clean water, as well as traditionally defined infrastructure items like roads, bridges and dams.

But the description of "infrastructure" in the law was expanded in a way that was sure to jeopardize affordable housing production. The law, which requires that federal financial assistance programs source American-made construction materials and not foreign ones, specified that it also applies to "buildings and real property."

## Housing's Voice Heard

It was bound to have a negative impact on affordable housing, especially because it didn't provide any additional funds for compliance. Affordable housing developers feared their projects were going to be impossible to build. U.S.

Housing and Urban Development, which funds affordable housing projects, got more than 100 letters from worried nonprofits, housing advocacy organizations and others describing just how BAP would severely impact their ability to build much needed affordable housing.

It may be impossible to comply with "Buy American" because materials may not be produced domestically.

"At a time when four million American households have just been priced out of homeownership due to the recent significant interest rate increases and sector-wide increases in construction material costs," wrote Habitat for Humanity, "we strongly believe that actions which can further increase the cost of affordable housing production should be avoided."

Well, the voices from the affordable housing community were heard. Not long before this column on this troubling situation went to press, HUD issued a "Phased Implementation Waiver" that at least temporarily saves the day.

HUD Secretary Marcia Fudge announced that the onerous requirement to purchase American-made only would be waived through some time

in 2024. This offers tremendous relief to organizations already struggling with high costs.

"This proposed phased implementation will allow for further consideration of the most efficient methods of implementation across the remaining HUD programs and for manufactured products and construction materials," the department's announcement continued, adding that "HUD believes that better coordination in the implementation of BABA will avoid unnecessary and undue hardship that could jeopardize the timely and cost-effective completion of such projects ..."

In fiscal year 2023, HUD said, grantees will receive \$14 billion through the department's programs that might otherwise have been subject to the BAP.

## Supply Chains Are International

The concern on the part of the affordable housing community before this letter was issued on Feb. 16 was intense and justified.

Today interest rates are higher, construction costs are at an all-time high, resources like available housing tax credits are not increasing – headwinds are everywhere. And this Buy (Only) American requirement not only would increase prices because of the limited number of suppliers, but also might actually be impossible to comply with because materials may not be produced domestically.

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“We fully support the Build America, Buy America Act’s core purpose of strengthening domestic manufacturing,” Jimmy Christianson, vice president for government relations at the Associated General Contractors of America, said before HUD stepped back. “If we had sufficient manufacturing capacity before the pandemic, we would all be in a better place today. Attracting new development and building new factories, however, isn’t as easy as turning on a light switch. It takes time.”

Several organizations had signed a letter requesting a blanket exemption for affordable

housing projects. “HUD should use the authority from the Act and Office of Management and Budget guidance to exempt HUD resources funding affordable housing projects from the BAP domestic content procurement requirements,” wrote Local Initiatives Support Corp. and nine other national groups.

A representative of one local Boston area contractor, who had not yet worked on a BAP project, said, “I could see challenges, but a lot of materials in our market come from Canada and Mexico, which would be an interesting challenge regionally if we could not utilize

this.”

HUD is to be commended for delaying implementation of BAP, at least until domestically sourced material is available at competitive prices. One of HUD’s mandates is serving the public interest. Creating affordable housing that Americans need now best serves that interest. ◀

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