

The Honorable Joseph R. Biden
President of the United States
The White House
1600 Pennsylvania Avenue, NW
Washington, DC, 20500

March 23, 2023

Dear President Biden:

We are writing to express our concerns regarding the likely impact of the revised guidance on the implementation of the Build America, Buy America Act (BABA) provisions of the Infrastructure Investment and Jobs Act on affordable housing development and the cost of housing in America.

BABA requires the Office of Management and Budget (OMB) to issue standards that define “all manufacturing processes” in the case of construction materials. We are concerned that the implementation of OMB’s proposed rule would undercut your administration’s efforts to address the housing affordability crisis and reduce inflation.

OMB should clarify “buildings and real property” do not include single-family and multifamily residential properties. According to data from Zonda for March 2022, more than a 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. Today, according to the National Association of Home Builders, transformers are a major bottleneck in housing deliveries. Bureau of Labor Statistics data indicate there were nearly half a million construction job openings at the end of 2022. And according to a highly respected analysis by Up for Growth, the United States is facing a shortage of 3.8 million housing units. This shortage has significantly contributed to extreme growth in housing unaffordability in markets throughout the country, many of which have never experienced double-digit growth in housing costs. It is also a major headwind into efforts to close the minority homeownership gap. Finally, shelter costs remain a major driver of inflation. A government-directed shortage of housing supplies would only exacerbate these problems.

Several of the programs on HUD’s list of federal financial assistance (FFA) published on January 19, 2022, such as the Community Development Block Grant (CDBG), the HOME Investments Partnerships Program, and the Housing Trust Fund are critical financing options used to acquire, construct, rehabilitate and preserve affordable housing for low-income households. Adding BABA requirements as a condition of funding for HUD’s FFA programs such as CDBG and HOME will place an enormous administrative burden on builders and developers of affordable housing, restrict the supply of necessary construction materials, and further exacerbate the American housing affordability crisis. Further, unless HUD and USDA FFA for housing are exempted, Low-Income Housing Tax Credit properties that use those funds may also be jeopardized.

OMB’s guidance specified, “Projects consisting solely of the purchase, construction, or improvement of a private home for personal use, for example, would not constitute an infrastructure project.” This rationale should also apply to all affordable housing development and repair, including affordable homeownership repair and development programs and HUD-assisted and USDA-assisted multifamily housing. This should include projects which are also privately owned, use of the property by tenants and their guests is spelled out in the contractual lease agreement between the property owner and the renters, and housing units that are affordable to those earning less than 120 percent of area median income.

Many of us have worked closely with your administration on expanding minority homeownership and rental housing opportunities, and on addressing the housing supply and affordability crisis. We have had highly productive meetings with a wide range of your cabinet officials and senior staff over the past 18 months to develop broad bipartisan approaches to address these issues. We hope that this work will not be undercut by policies meant to strengthen American production and employment, but could have the opposite impact.

We strongly urge OMB to take no action that could have the unintended consequence of increasing housing costs for all Americans.

Sincerely,

National Housing Conference
Atlanta Neighborhood Development Partnership
Enterprise Community Partners
Habitat for Humanity International
Homeownership Alliance
Housing Assistance Council
Housing Partnership Network
Local Initiatives Support Corporation
Manufactured Housing Institute
Mortgage Bankers Association
National Association of Affordable Housing Lenders
National Association of Home Builders
National Association of Local Housing Finance Agencies
National Association of REALTORS®
National Community Stabilization Trust
National Council of State Housing Agencies
National Housing Trust
National Leased Housing Association
National Multifamily Housing Council
National NeighborWorks Association
SKA Marin
Up for Growth Action
Jacqueline O'Garrow
Pam Patenaude

CC: The Honorable Marcia Fudge, Secretary of Housing and Urban Development
The Honorable Thomas Vilsack, Secretary of Agriculture
The Honorable Shalanda Young, Director of the Office of Management and Budget
The Honorable Lael Brainard, Director of the National Economic Council
The Honorable Ambassador Susan Rice, Director of the Domestic Policy Council