

Resolution #2025–09

A RESOLUTION REQUESTING AN EXEMPTION FROM THE BUILD AMERICA, BUY AMERICA (BABA) ACT

WHEREAS; the National American Indian Housing Council represents the housing interests of American Indian tribes, Alaska Native villages, and native Hawaiian Home Lands and more than 265 tribally designated housing entities providing housing services to approximately 464 tribes, Alaska Natives, and native Hawaiians; and

WHEREAS; the stated purpose of the organization is to promote advocacy for policy and legislative changes that will favorably impact our primary goals of providing culturally relevant and quality affordable housing for Native people in a manner recognizing the unique government-to-government relationship of tribes and the federal government; and

WHEREAS, there is critical shortage of available developed tribal home sites for underserved and vulnerable tribal members living in Indian and Alaska Native communities; and

WHEREAS, the Build America, Buy America Act (BABA) was enacted on November 15, 2021, as part of the Infrastructure and Investment and Jobs Act (IIJA), Public Law 117-58, §§70901-70952; see also 41 U.S.C. §8301, note; and

WHEREAS, BABA established a domestic procurement preference – the Build American Preference (BAP) – for certain infrastructure projects (including development of housing) funded with federal grants; and

WHEREAS, numerous tribal housing programs will be greatly impacted by the implementation of BABA. Specifically, the costs of complying with BABA will make many, if not all, development projects too expensive to implement; and

WHEREAS, the U.S. Department of Housing & Urban Development (HUD) issued a temporary BABA waiver for tribally designated housing entities such as CRHA, which expired on September 30, 2024; and

WHEREAS, no guidance has been issued, either by HUD or the Office of Management and Budget (OMB), regarding how the BABA shall be administered in conjunction with the Indian Preference statutory and regulatory requirements found in NAHASDA; and

WHEREAS, the development of desperately needed tribal housing should not be considered infrastructure for purposes of the BABA because of the extreme administrative and financial burdens created by BABA; and

WHEREAS, NAIHC member TDHEs already face significant administrative and financial barriers to the construction and development of housing units due to the remote location and rural geography of many Indian and Alaska Native communities; and

WHEREAS, other construction and development barriers exist due to the limited number of contractors, and suppliers for equipment, lumber, concrete, and other materials needed for construction and development; and

WHEREAS, housing development is also highly challenging for the NAIHC member TDHEs due to severe limitations on the funding that is annually allocated through the NAHASDA IHBG and the imposition of the BABA will be another significant administrative and cost barrier for the development and construction of housing units; and

WHEREAS, the imposition of the BABA purchasing requirements goes against the public interest in supporting tribal nations in the development of housing for low and very low-income tribal members.

NOW THEREFORE BE IT RESOLVED that NAIHC hereby requests and recommends that the U.S. Office of Management & Budget (OMB) and the U.S. Department of Housing & Urban Development implement a full BABA exemption for tribes and all tribal programs administering federal funds such as tribally designated housing entities; and

BE IT FURTHER RESOLVED, that if a full exemption is not possible, in the alternative, that the HUD BABA exemption which expired on September 30, 2024 be extended for two or more additional years until at least December 2026.

Sponsored by: Cheyenne River Housing Authority on behalf of UNAHA