

April 23, 2025

Build America Buy America Act

Proposed Non-Availability Waiver for HVAC Ductless Split Systems

Compass Memorial Hospital, Marengo, IA - Addition and Renovation of Existing Hospital

1. Summary

Agency: United States Department of Agriculture (USDA), Rural Housing Service (RHS)

Waiver: The United States Department of Agriculture (USDA), Rural Housing Service (RHS) is proposing a project non-availability waiver of the manufactured products and construction materials domestic preference requirements of section 70914 of the Build America, Buy America Act (BABA) included in the Infrastructure Investment and Jobs Act (Pub. L. No. 117-58) as applied to one federal financial assistance award for the Compass Memorial Hospital. This proposed limited non-availability waiver would allow the Compass Memorial Hospital to purchase non-compliant HVAC Ductless Split Systems.

Applicability: This proposed waiver action permits the use of non-domestic HVAC Ductless Split Systems in the Compass Hospital Addition and Renovation Project. These products will be obtained by Compass Memorial Hospital and incorporated into the subject project, prior to the expiration date of the waiver.

Waiver Type: Non-availability waiver of the BABA manufactured product requirements for HVAC ductless split systems.

Summary of Items Covered in Waiver: HVAC Ductless Split Systems

Waiver Justification Summary: HVAC Ductless Split Systems are manufactured products not produced in the United States of a satisfactory quantity or quality.

Length of the Waiver: This waiver will be in effect upon approval and will remain in effect until June 26, 2026, the estimated project completion date.

2. Background

The Buy America Preference set forth in section 70914 of the Build America, Buy America Act included in the Infrastructure Investment and Jobs Act (Pub. L. No. 117-58), requires all iron, steel, manufactured products, and construction materials used for infrastructure projects under Federal financial assistance awards be produced in the United States.

Under section 70914(b), The Agency may waive the application of the Buy America Preference, in any case in which it finds that: applying the domestic content procurement preference would be inconsistent with the Non-availability; types of iron, steel,

manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality; or the inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25%. All waivers must have a written explanation for the proposed determination; provide a period of not less than 15 days for public comment on the waiver; and submit the waiver to the Office of Management and Budget Made in America Office for review to determine if the waiver is consistent with policy.

HVAC Ductless Split Systems

The system consists of three cooling-only ductless split system units, with accompanying distribution and control systems, rated for use in a healthcare facility with infection control needs.

3. Description of Award

Title of Project: Compass Memorial Hospital, Addition and Renovation

Infrastructure Project Description and Location: Compass Memorial Hospital is in Marengo, IA and is constructing an addition and renovation of their Critical Access Hospital (CAH) facility that was originally built in 1956.

Description of Project: This project is an addition to, and remodel of, an existing single story Critical Access Hospital. The project consists of (3) additions: a new Emergency Department, an expansion of the Med/Surg wing, and an addition to the Administration wing. The project also includes the remodeling of the existing Med/Surg area, the Imaging suite, the Specialty Clinic area, and the Registration area.

Recipient Name: City of Marengo

Unique Entry Identifier (UEI): SLN8VRS68K52

Federal Financial Assistance Program: Community Facilities Direct Loans & Grants

Federal Financial Assistance Funding Amount: \$24,154,000.00

4. Description of Covered Items

Manufactured Products: The waiver seeks an exception to the Build America, Buy America Act (BABA) requirements for the following manufactured products:

- HVAC Ductless Split Systems: The MSCU (outdoor units) and MS (indoor units) units, operate at 208V/60Hz/1 phase and use R-410A refrigerant. Each unit is a 2.5-ton cooling-only mini-split wall unit with low ambient cooling capabilities down to -22°F. Features include a wall-mounted thermostat, condensate pump, air direction adjustment grille, outdoor stand/mounting kit, drain pan heater, and line sets. The electrical requirements specify an MCA of 17A and an MOP of 20A.
 - NAICS: 238220
 - PSC: 4120
 - Cost: \$21,070.00

5. Waiver Justification Summary

Anticipated Impact if No Waiver is Issued:

If a non-availability waiver is not granted for the Ductless Split Systems, it will necessitate a comprehensive redesign of the existing specifications to integrate a potentially BABA-compliant product. This redesign process is likely to incur additional costs and extend the project timeline, which could lead to significant disruptions in the construction schedule. Such delays not only affect the immediate project but may also have broader implications for the overall timeline of the healthcare facility's operational readiness.

Moreover, the current design is aligned with established industry standards for healthcare facilities, ensuring optimal performance and compliance with regulatory requirements. Introducing a different, non-industry-standard product could compromise the integrity of the design and negatively impact hospital operations. This risk is concerning in a healthcare setting, where reliability and efficiency are paramount. Any deviation from proven standards could lead to unforeseen complications, ultimately affecting patient care and safety. It is important to consider the implications of a redesign and the potential consequences of deviating from established industry practices.

Description of Efforts Made to Identify Domestic Products:

The project team reached out to several Ductless Split System manufacturers and suppliers and were unable to identify any that can meet the BABA requirements for this equipment. Two manufacturers, Mitsubishi Electric and Daikin Comfort Technologies, provided memos stating that there are currently no similar products manufactured in the United States. Each manufacturer also referenced investigations by federal agencies that found no companies manufacture these systems domestically. Specifically, the Federal Railroad Administration in 2015 and the Department of Energy in 2010.

Once the project team submitted a waiver request, the United States Department of Agriculture (USDA), Rural Housing Service (RHS), requested assistance from Chickasaw Business Solutions ("Research Team") in fulfilling a BABA requirement market research request by contacting manufacturers of potentially BABA-compliant Ductless Split Systems for use at the Compass Memorial Healthcare. This effort sought to facilitate self-certification in alignment with BABA guidance and requirements for

Ductless Split System (BABAA Category: Manufactured Products), to gather information on manufacturers of Ductless Split System products, specifically the BABA compliant equivalent to the Daikin 2.5- Ton Wall mounted system.

The first step accomplished by the Research Team was to document all previously contacted manufacturers as provided on the Market Research Request form completed by USDA. Outreach efforts were completed with an additional 16 manufacturers. The Research Team utilized the Google search engine while using the following search terms: BABAA, Build America, Buy America and Ductless Split System. If a possible vendor was identified, the Research Team would reach out via email or telephone interviews. During the 45-day market research period from November 7, 2024, to December 22, 2024, and utilizing the methodology above, no self-certification letters were found. The search did identify one manufacturer, Hastings HVAC, that produced a similar product. After further research, it was determined that while this manufacturer does build HVAC equipment it does not produce BABA-compliant 2.5-ton units equivalent to the product required for this project.

A National Institute of Standards and Technology (NIST)'s Manufacturing Extension Partnership (MEP) research request was submitted on November 12, 2024 for data contained within the Partnership's 50-state and Puerto Rico database surrounding the requested products. The results from the NIST MEP report closed on December 10, 2025, provided one manufacturer, Hastings HVAC, Inc., that could potentially provide the product. After further research, it was determined that while this manufacturer does build HVAC equipment it does not produce BABA-compliant 2.5-ton units equivalent to the product required for this project.

Assessment of Cost Advantage of a Foreign-Sourced Product: Under OMB M-24-02, agencies are expected to assess "whether a significant portion of any cost advantage of a foreign-sourced product is the result of the use of dumped steel, iron, or manufactured products or the use of injuriously subsidized steel, iron, or manufactured products" as appropriate before granting a Non-availability waiver. USDA's analysis has concluded that this assessment is not applicable to this waiver as this waiver is not based on the cost of foreign-sourced products.

Solicitation for Comments: The proposed waiver will be posted on USDA's public facing webpage and a notice of the proposed waiver will also be posted to the Made in America website, to satisfy the requirement to publish any Build America, Buy America Act Project Waiver and provide the public with fifteen (15) days to submit comments. USDA is seeking public and industry comments from all interested parties and encouraging current manufacturers of the subject products to submit comments regarding potential availability.

For more information on the Build America, Buy America Preference, please reference <https://www.rd.usda.gov/build-america-buy-america>