

December 23, 2024

**Build America Buy America Act Proposed Nonavailability Waiver
Compass Memorial Hospital, Marengo, IA
Addition and Renovation of Existing Hospital
Enclosed Starters and Switches (Disconnects)
Surge Protective Devices**

1. Summary

Agency: United States Department of Agriculture (USDA)

Waiver: The United States Department of Agriculture is proposing a nonavailability waiver of the manufactured product 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) for Enclosed Starters and Switches (Disconnects) and Surge Protective Devices for use at the hospital project in Marengo, IA.

Applicability: This proposed waiver action permits the use of non-domestic Enclosed Starters and Switches (Disconnects) and Surge Protective Devices in the 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: Project-specific, nonavailability waiver of the BABAA manufactured product requirements

Summary of Items Covered in Waiver: Enclosed Starters and Switches (Disconnects) and Surge Protective Devices.

Waiver Justification Summary: Enclosed Starters and Switches (Disconnects) and Surge Protective Devices are manufactured products not produced in the United States of a satisfactory quality or specifications for use in the identified project.

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 nonavailability; 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.

Enclosed Starters & Switches (Disconnects)

No BABA-compliant options could be identified for the equipment approved in the equipment schedule. Since none of the manufacturers were able to meet this standard, the project was bid utilizing the "Basis of Design" fixtures in the fixture schedule.

Surge Protective Devices

No BABA-compliant options could be identified for the equipment approved in the equipment schedule. Since none of the manufacturers were able to meet this standard, the project was bid utilizing the "Basis of Design" fixtures in the fixture schedule.

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: The addition and renovation will impact approximately 37,750 sq feet including 21 patient rooms, improvements to the emergency department with connected ambulance garage, improved flow within the imaging department with a "real" check-in, improved dressing rooms and right-sizing the space to meet ultrasound and CT equipment requirements.

Recipient Name: City of Marengo

Unique Entry Identifier (UEI): SLN8VRS68K52

Federal Financial Assistance Program and Assistance Listing: 10.766 Community Facilities 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 Buy America requirements for the following manufactured products:

- Enclosed Starters & Switches (Disconnects)
 - NAICS: 238210
 - PSC: 6110
 - Cost: \$6,812.89

- Surge Protective Devices
 - NAICS: 238210
 - PSC: 6110
 - Cost: \$10,818.44

5. Waiver Justification Summary

Anticipated Impact if No Waiver is Issued:

Enclosed Starters & Switches (Disconnects)

It is industry practice (and highly beneficial) to source all of this equipment from a single manufacturer, to ensure warranty coverage and proper operation between all the various parts. If a waiver is not granted, interoperability will not be guaranteed.

Surge Protective Devices

It is industry practice (and highly beneficial) to source all of this equipment from a single manufacturer, to ensure warranty coverage and proper operation between all the various parts. If a waiver is not granted, interoperability will not be guaranteed.

Description of Efforts Made to Identify Domestic Products: USDA conducted market research to determine if there are domestic manufacturers that can produce the products listed above. USDA contacted multiple manufacturers for product availability. Most manufacturers contacted either confirmed they cannot manufacture these products to meet the project specifications, did not respond to inquiries, or their products are not BABAA compliant. Thus, they are not viable options for this project, given that the project has no approved equals for this product.

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 nonavailability 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. Public comments on this waiver should be submitted to FFAC@usda.gov. The email subject line must reference the title of this waiver.

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