

December 23, 2024

**Build America Buy America Act Proposed Nonavailability Waiver
Floyd County Medical Center
Clinic & Hospital Expansion
Ductless Split System**

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 HVAC ductless split systems for use at the Floyd County Medical Center Clinic & Hospital Expansion project in Charles City, IA.

Applicability: This proposed waiver action permits the use of non-domestic HVAC ductless split systems in the Floyd County Medical Center project. This product will be obtained by Floyd County Medical Center and incorporated into the subject project, prior to the expiration date of the waiver.

Waiver Type: Nonavailability 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: The ductless split system incorporated into the design is unavailable from a BABA-compliant manufacturer.

Length of the Waiver: This waiver will be in effect upon approval and will remain in effect until April 30, 2026, the estimated remainder of the project's construction schedule.

Rural Development • Waverly Office

1510 3rd St. S.W. • Waverly, IA 50677
Voice (319) 352-1715 • Fax (866) 255-6573

USDA is an equal opportunity provider, employer and lender

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 public interest; 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 five 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: Floyd County Medical Center Clinic & Hospital Expansion

Infrastructure Project Description and Location: This project includes a 3-story addition to the existing hospital as well as renovation of an existing clinic space and public corridors. The addition includes a finished basement with mechanical space and training rooms, clinic space on all 3 levels, a new check-in desk and registration spaces, and a new pharmacy space. The project also includes the remodel of an existing clinic space for an upgraded speech and occupational therapy, added laboratory space, and new finishes for the public corridors.

Description of Project: The Floyd County Medical Center Clinic & Hospital Expansion project is new construction of a clinic facility and expansion of the existing hospital on a new site already owned by the hospital. The project will allow Floyd County Medical Center to improve the ratio of primary care providers to citizens of Floyd County by increasing the number of providers and expanding

clinic space as it relates to safety, privacy, accessibility, energy efficiency, and infection control.

Recipient Name: Floyd County Medical Center

Unique Entry Identifier (UEI): NM7YLLHNVBL8

Federal Financial Assistance Program: 10.766 Community Facilities Loans & Grants

Federal Financial Assistance Funding Amount: \$24,500,000.00

4. Description of Covered Items

Manufactured Products: The waiver seeks an exception to the Buy America requirements for the following manufactured products:

- HVAC Ductless Split System
 - NAICS: 238220
 - PSC: 4120
 - Cost: \$22,000/Ea (Qty: 5)

5. Waiver Justification Summary

Anticipated Impact if No Waiver is Issued: The ductless split system devices referenced above is an essential product that is required for the completion of the project. A redesign of the existing specifications to incorporate a potentially BABA-compliant product would introduce undue cost and delay to the project, potentially disrupting construction as a result. Additionally, the design as-is conforms to the industry standard for health care facilities, and redesign to incorporate a different non-industry-standard product risks affecting hospital operation as a result.

Description of Efforts Made to Identify Domestic Products: USDA conducted market research to determine if there are domestic manufacturers that can produce or supply ductless split systems. 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 BABA-compliant. Through MEP source scouting one manufacturer self-reported manufacturing a similar product. Upon further outreach it was determined that they do not manufacturer a BABA-compliant product to the specifications of the project. Thus, there are no viable alternatives, 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 public interest 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>