

December 12, 2024

**Build America Buy America Act Proposed Nonavailability Waiver  
Floyd County Medical Center  
Clinic & Hospital Expansion  
Surge Protection 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 surge protective devices 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 surge protective devices 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 surge protective devices.

Summary of Items Covered in Waiver: surge protective devices

Waiver Justification Summary: Two of the seven surge protective devices used in this project are manufactured products not produced in the United States of a satisfactory quality or specifications for use in the identified project. Please note that, while all seven devices are being sourced from the same manufacturer, specifically two of them do not meet BABA requirements.

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

## 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.

### Surge Protective Devices

The project includes a total of seven surge protective devices, five of which are compliant with BABA standards. The two non-compliant devices are the subject of this waiver request and cannot be installed internally within the panelboards. All panelboards provided for the project are BABA compliant and sourced from the same manufacturer. Employing a different manufacturer for the surge protective devices would not only invalidate the panelboard warranty but also elevate the risk of performance deficiencies, thereby compromising their effectiveness.

## 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: Community Facilities Direct 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:

- Qty. 2: SSP02EMA12-SPD T1 EMA 120KA 208Y/120V, 208Y/120V 3 Phase 4 Wire, 120kA per phase UL, Type 1 Surge protective devices
  - NAICS: 238210
  - PSC: 6110
  - Cost: \$4,758/Ea

- **Waiver Justification Summary**

Anticipated Impact if No Waiver is Issued: The surge protective devices referenced above are essential products that are required for the completion of the project. The two non-compliant devices are the subject of this waiver request and cannot be installed internally within the panelboards. All panelboards provided for the project are BABAA compliant and sourced from the same manufacturer. Employing a different manufacturer for the surge protective devices would not only invalidate the panelboard warranty but also elevate the risk of performance deficiencies, thereby compromising their effectiveness.

Description of Efforts Made to Identify Domestic Products: USDA conducted market research to determine if there are domestic manufacturers that can produce or supply surge protective devices. 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. Thus, they are not a viable option 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 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](mailto: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>