

U.S. DEPARTMENT OF AGRICULTURE
Rural Development
And
Northern Border Regional Commission

Project Specific Non-Availability Waiver
Build America Buy America Product Waiver: Mini-split heat pumps

1. Summary

Agency: Department of Agriculture (USDA) Rural Development (RD) and the Northern Border Regional Commission (NBRC)

Common Governmentwide Accounting Classification (CGAC):

NBRC: 573

USDA: 012

Proposed Waiver: USDA is joining NBRC in proposing a project-specific 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. 117- 58) for Beth Brunswick Memorial Fund for Children. This proposed limited non-availability waiver would allow the recipient to purchase and use non-compliant mini-split heat pump.

Applicability: This proposed waiver action permits the use of 14 non-domestic mini-split heat pump systems. This product will be obtained by Beth Brunswick Memorial Fund for Children childcare center in Ranglely, Maine, 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 mini-split heat pump systems.

Summary of Items Covered in Waiver: 14 mini-split heat pump systems

Waiver Justification Summary: The 14 mini-split heat pump systems incorporated into the design are unavailable from a BABA-compliant manufacturer.

Length of the Waiver: This waiver will be in effect upon approval and will remain in effect until September 30, 2027 the estimated remainder of the project's construction schedule.

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.

Mini-Split Heat Pump Systems

This infrastructure project includes a total of 14 heat pump systems. The heat pump system products to be covered by this waiver and used in this project include: seven compressors and seven indoor evaporators for a total of \$29,451.22. (NAICS Code: 333415, PSC Code: 4120).

3. Description of Award

Title of Project: Beth Brunswick Memorial Fund for Children New Childcare Facility

Infrastructure Project Description and Location: The project is located on a 2.74-acre lot on Loon Lake Road in Rangely, Maine. They are intending to construct a 5,000 sq foot single story building. The property currently has an entry road to the property that will be extended; an additional connecting road will also connect the facility to the neighboring K-12 school. The building will consist of 5 classrooms, a multi-use room playroom, vestibule entrance, office, warming kitchen, staff room, laundry/janitor room, and age-appropriate bathrooms. There will be a 2100 sq ft parking area and 5 separate playgrounds totaling 8642 sq ft.

Description of Project: The Beth Brunswick Memorial Fund for Children received a \$1 million grant from NBRC, obligated in 2024, to build a childcare center in Rangeley, Maine. The facility will accommodate up to 76 children ages 6 months to 5 years old. This grant assists with the increased costs and financing gap needed to complete construction for this project. The proposed project and use of funds are eligible for CDS grant purposes, and the applicant has the legal authority to enter into an agreement with Rural Development. Beth Brunswick Memorial Fund for Children has substantial community support, and it is within the means of the organization to successfully own

and operate the facility. The Beth Brunswick Memorial Fund for Children received a \$750,000 CDS Grant that is to be administered through USDA Rural Development.

Recipient Name: Beth Brunswick Memorial Fund for Children

Unique Entity Identifier: WKADMV7SN2E4

Federal Award Identification Number (FAIN)

NBRC: FAINGTCAT00017

USDA-RD: CLSS00000088308

Federal Financial Assistance Listing Number and Name:

NBRC: 90.601 Northern Border Regional Development

USDA-RD: 10.766 - Community Facilities Loans and Grants

Federal Financial Assistance Funding Amount:

NBRC award amount: \$1,000,000.00

USDA-RD award amount: \$750,000.00

Total Cost of Infrastructure Expenditure

NBRC: \$3,234,853.00

USDA-RD: \$750,000.00

4. Description of Covered Items

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

- 14 heat pump systems
- 7 compressors
- 7 indoor evaporators
 - NAICS: 333415
 - PSC: 4120
 - Total Cost: \$ 29,451.22

5. Waiver Justification Summary

Anticipated Impact if No Waiver is Issued: Absent a waiver issued, the recipient would be unable to move forward with project as alternative systems do not provide the heating and cooling necessary for the extreme weather in this geographic location.

Description of Efforts Made to Identify Domestic Products: Market research and industry outreach was conducted from Fall 2024 to Spring 2025. Heat pumps are considered

manufactured products. The recipient's market research was not able to yield product manufacturers who were able to meet the 55% cost of components requirement for the manufactured products that are required for the project's completion. The recipients market research consisted of searching multiple manufacturers online and making calls to known suppliers and inquiring within their trade network. This included direct outreach to: FW Webb, Granite group, Ferguson, Win supply, Bell Simon's, Winslow supply, Rangeley supply, Supply house.com, Home Depot, and Lowes. The research found that the heat pump equipment specified is assembled in the United States but many of the components are manufactured outside of the United States and the equipment does not meet the 55% requirements. Further, manufacturers would not provide certification of the requirement. The recipient also reached out to Maine Manufacturing Extension Partnership; however, their outreach did not yield any BABAA compliant products. After comprehensive outreach, no domestic manufacturer was able to provide the materials necessary to meet the BABAA requirements for all products specified in this waiver.

In addition, NBRC's outreach included their own internet searches and contacting the Department of Energy which is considerably more experienced with sourcing the materials sought for this recipient. Those conversations did not yield a manufacturer that could meet the BABAA requirements.

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 manufacture 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 nonavailability waiver. NBRC'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 both NBRC and 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. NBRC and USDA are 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 rdourmashkin@nbrc.gov

and 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.nbr.gov/content/BABAA> and <https://www.usda.gov/about-usda/general-information/staff-offices/office-chief-financial-officer/federal-financial-assistance-policy/usda-buy-america-waivers-federal-financial-assistance>.