October 26, 2026

Build America Buy America Act Proposed Nonavailability Waiver
Town of Saint Agatha
New Town Office
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. 117- 58) for HVAC ductless split systems for use at the New Town Office project in Saint Agatha, ME.

Applicability: This proposed waiver action permits the use of non-domestic HVAC ductless split systems in the New Town Office project. This product will be obtained by the Town of Saint Agatha 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 June 30, 2028, 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.

HVAC Ductless Split Systems

The system consists of two heating/cooling ductless split system units, with accompanying distribution and control systems.

3. Description of Award

Title of Project: New Town Office

Infrastructure Project Description and Location: The project is located on a 2.74-acre lot on Main Street in St. Agatha, Maine. They are intending to construct an 1,800 sq foot single story building. The building will be a town office with 2 offices, 1 boardroom, 1 storage room, 1 vault and 1 restroom.

Description of Project: The Town of St. Agatha received a $450,000 grant from USDA RD, obligated in 2025, to build a town office in St. Agatha, Maine. The facility will be open to the public for town business and be a voting headquarters.

Recipient Name: Town of Saint Agatha

Unique Entity Identifier (UEI): WKADMV7SN2E4

Federal Financial Assistance Program: 10.766 Community Facilities Loans & Grants

Federal Financial Assistance Funding Amount: $450,000.00

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: $14,726/Ea (Qty: 2)

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: 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. 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.