

**Department of Energy Build America,
Buy America Act Proposed Project-Specific Non-availability Waiver
for HVAC Heat Pump System Products
BABA WAV 2024-02**

Proposed Waiver Summary: The United States Department of Energy (DOE) Solar Energy Technology Office (SETO) is proposing a project nonavailability waiver of the manufactured products domestic preference 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) as applied to one federal financial assistance award for the Charlo, Montana School District. This proposed limited nonavailability waiver would allow the Recipient to purchase and use non-compliant Heating, Ventilation and Air Conditioning (HVAC) system products including: air source heat pumps and associated air handling systems.

Duration of the waiver: The effective date of this waiver is from date of issue to December 31, 2024.

Applicability: The waiver will apply to eligible expenditures incurred by the Recipient on or after the effective date of the final waiver for the period that the waiver is active.

Recipient: Charlo School District 71 (MNU8SWRCA1J1)

Total estimated project cost related to infrastructure: \$1,200,000

Estimated total cost of products being waived: \$248,000

Waiver Type: Nonavailability waiver of the domestic manufactured products required for an infrastructure project.

Waiver Level: Project-specific waiver for one award.

Funding Mechanics: Funding for the infrastructure project is made available through the 2022 Funding Opportunity Announcement for Energy Improvements at Public K-12 School Facilities – Bipartisan Infrastructure Law (BIL) – Renew America’s Schools. The location of the project is Charlo, Montana. The period of performance of this award is 18 months, from July 1, 2023 to December 1, 2024. Installation of the items is expected by December 2024.

Description of Covered Items: The infrastructure project includes a total of 14 HVAC systems. HVAC system products to be covered by this waiver and used in this project include: eight (8) 3-ton air source heat pumps, five (5) 5-ton air source heat pumps and one (1) 16-ton air source heat pump and their associated air handling systems (NAICS Code 333415).

Description of Market research and Justification: Market research and industry outreach was conducted by an energy efficiency company in September 2023 – January 2024. Market research was conducted by a commercial HVAC supplier in October 2023 - January 2024. Market research was conducted by the DOE Technical Project Officer in November 2023-January 2024.

The energy efficiency firm reached out to 3 industry-leading suppliers. They confirmed that there does not appear to be any HVAC air source heat pumps manufactured in the U.S. that provide the specifications the recipient requires, that are also BABA compliant.

The DOE Technical Project Officer utilized both online searches and email inquiries, and coordinated with the DOE Manufacturing and Energy Supply Chain Office. These revealed that there does not appear to be any air-to-air heat pumps manufactured in the U.S. that provide the specifications the recipient requires, that are also BABA compliant. One company manufactures geothermal and water source heat pumps. These are offered as water-to-air and water-to-water, and the firm does not include air source heat pumps in its product line. Another heat pump option researched produces an air-to-water heat pump that is not a viable option for the Charlo School District.

The research found that the air-to air 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.

Justification: The recipient's market research was not able to yield manufacturers who were able to meet the 55% cost of components requirement for the manufactured products listed above that are required for the project's completion. These products were found to be manufactured in the United States, but did not meet the 55% cost of components test. After extensive outreach, no domestic manufacturer was able to provide the materials necessary to meet the BABA requirements for all products specified in this waiver. These requirements are important for the systems total lifetime cost and to meet the owner's energy savings targets.

Impact Absent the waiver: Absent this waiver, the project would not be able to be completed given that HVAC is the primary upgrade the recipient is seeking. In addition, the project period of performance for installation is between June 2024 and August 2024, concluding before the start of the 2024-25 school year so the desired product is necessary in order to meet project deadlines.

Solicitation for Comments: DOE is seeking public comments from all interested parties, including industry members and current manufacturers of the covered HVAC system product items listed above, regarding the potential availability of project-compliant products from domestic manufacturers. The proposed waiver is available for public comment for fifteen (15) calendar days. **Comments are due no later than May 25, 2024**, and must be submitted by email to the DOE Contracting Officer, Liz Parrish, at Elizabeth.Parrish@EE.DOE.Gov. Please put "**BABA WAV 2024-02 - CHARLO**" in the subject line of the email.