

**Department of Energy**

**Build America, Buy America Act**

**Proposed Project-Specific Non-availability Waiver For HVAC, Roof, Building Automation Controls, Windows, Doors, and LED Lighting Fixtures**

**BABA WAV 2026-13**

**Proposed Waiver Summary:** The United States Department of Energy (DOE) Office of State and Community Energy Programs (SCEP) 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 Greenup County Board of Education (KY). This proposed limited nonavailability waiver would allow Greenup County Board of Education (KY) to purchase non-compliant HVAC, Building Automation Controls, and LED Lighting fixtures.

**Duration of the waiver:** Project Specific for the entire period of performance of the grant in which the infrastructure projects will occur. The period of performance of this award (DE-SE0000718) is 01/12/2024 through 10/31/2027.

**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:** Greenup County Board of Education (XUXNGR6NLS43)

**Total estimated project cost related to infrastructure:** \$14,283,562

**Estimated total cost of products being waived:** Estimates to be determined based on design and manufacturers quotes. Rough estimate is \$1,274,758.

**Waiver Type:** Nonavailability waiver of the BABA manufactured product requirements for the products listed below.

**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, Funding Opportunity Announcement DE-FOA-0002756. The location of the project is Greenup, Kentucky. The period of performance of this award (DE-SE0000718) is 01/12/2024 through 11/30/2026.

**Description of Covered Items:** This waiver proposes to waive:

HVAC system includes the installation of high-efficiency electric motors, heating, ventilating and air conditioning system improvements, cooling towers, heat pumps new air filters with a minimum efficiency reporting value of 13, heat recovery systems, motor replacements. The recipient's market research was unable to identify manufacturers that could meet the requirement of 55% component cost for the listed manufactured products needed for the project's completion. For the HVAC equipment, the recipient contacted three top suppliers and discovered that the proposed products are domestically made but do not meet the domestic content standards for manufactured products under BABA. One manufacturer claimed their product meets the full requirements of BABA. However, research determined that this certification is not applicable. (NAICS: 33341) – Boilers– (NAICS: 33414)

- **Cooling Tower:** 1,643,342 BTUH Heat Rejection, 101F Inlet Water, 95F Outlet Water, 78F WB, 548 GPM, Variable Speed/EC/VFD-driven Fan
- **Condensing Boilers:** 500,000 - 1,500,000 BTUH Nominal Output, Natural Gas Fuel, Minimum 7:1 Turndown, Thermal Efficiency (AHRI)  $\geq 96\%$ , Direct-spark ignition, Low NOx operation
- **Horizontal Water-Source Heat Pumps:** 208-230V/60, 1T to 15T per unit, BACnet Communication, Minimum COP  $\geq 3.0$  at AHRI Standard Conditions

HVAC Rooftop Units will be installed to provide efficient heating, cooling, and ventilation. The recipient's market research was unable to identify manufacturers that could meet the requirement of 55% component cost for the listed manufactured products needed for the project's completion. (NAICS: 333415)

- **Type:** Packaged electric cooling with gas heating RTUs, Downflow
- **Capacity Range:** 20 Ton High Efficiency
- **Cooling Efficiency:**
  - EER  $\geq 11.0$
- **Heating:**
  - $\geq 80\%$  thermal efficiency
- **Electrical:** 460/60/3
- **Ventilation:** Economizer with outdoor air damper per ASHRAE 62.1

- **Controls:** BACnet ready controllers

UV Air filtration installation of ultraviolet disinfection systems will enable air handling units to supply cleaner indoor air. The recipient's market research was unable to identify manufacturers that could meet the requirement of 55% component cost for the listed manufactured products needed for the project's completion. (NAICS: 238220)

- **Type:** In-duct UV-C disinfection system
- **Wavelength:** 254 nm (UV-C band)
- **Application:** Installed downstream of cooling coils within AHU
- **Purpose:** Reduce microbial growth, biofilm

Building Automation Controls (BAC) This project has specific requirements for the building automation system including but not limited to being 100% native BACnet, and being 100% reverse compatible with the manufacturers product line. These requirements are important for the systems total lifetime cost and to meet the owner's energy savings targets. (NAICS: 334512)

- **Protocol:**
  - 100% native BACnet (BACnet/IP and/or MS/TP)
  - No gateways or protocol converters
- **Compatibility:**
  - Fully reverse-compatible with the manufacturer's legacy and future product lines
  - **Control Capabilities:** HVAC system scheduling
  - Temperature and humidity control
  - Alarm management and trending
  - Web-based remote access

Lighting includes LED lighting solutions that will reduce cooling loads enabling improved comfort during periods of high outdoor air temperatures. The subcontractor for the recipient is an established energy construction expert who utilizes multiple LED lighting solutions. Research for multiple grant-based projects requiring BABA compliance has yielded no BABA compliant solutions. Due to the lack of domestically manufactured components required to meet the 55% U.S. content threshold. Key components of LED lighting, such as LED chips, drivers, and other electronic parts, are primarily produced overseas, and there is insufficient domestic manufacturing capacity. (NAICS: 335132)

All fixture types listed below to include:

- **2x2 Field Adjustable LED Flat Panel Fixtures:** 120V-277V, Selectable Lumen output, 3 CCT,  $\geq 130$  Lumens/Watt, Minimum 5 year Warranty,  $\geq 0.90$  Power Factor, 80+CRI
- **2x4 Field Adjustable LED Flat Panel Fixtures:** 120V-277V, Selectable Lumen output, 3 CCT,  $\geq 130$  Lumens/Watt, Minimum 5 year Warranty,  $\geq 0.90$  Power Factor, 80+CRI

- **2x4 Field Adjustable LED Flat Panel Fixtures w/ Integral Emergency Backup Battery:** Same as above with minimum 90 minute battery.
- **Surface Mount LED Stairwell Fixture w/ Integral occupancy sensor and Emergency Backup Battery:** 4' length, 120-277V, 3CCT, Selectable Lumen Output, Surface Mount, White Body, Ultrasonic Motion Sensor, 0-10V
- **4" LED Retrofit Can:** 120-277V, 4000k or Selectable, Selectable Lumen output,  $\geq 80$  Lumens/Watt, Minimum 5 year Warranty,  $\geq 0.90$  Power Factor, 80+CRI
- **6" LED Retrofit Can:** 120-277V, 4000k or Selectable, Selectable Lumen output,  $\geq 80$  Lumens/Watt, Minimum 5 year Warranty,  $\geq 0.90$  Power Factor, 80+CRI
- **8" LED Retrofit Can:** 120-277V, 4000k or Selectable, Selectable Lumen output,  $\geq 80$  Lumens/Watt, Minimum 5 year Warranty,  $\geq 0.90$  Power Factor, 80+CRI
- **8" LED Retrofit Can w/ Integral Emergency Backup Battery:** Same as above with minimum 90 minute battery.
- **LED Field Adjustable LED High Bay Fixture:** 120V-277V, Selectable Lumen output, 3 CCT,  $\geq 140$  Lumens/Watt, Minimum 5 year Warranty,  $\geq 0.90$  Power Factor, 80+CRI, White, DLC 5.1 Premium
- **LED Exit Sign:** 120V-277V, LED, Universal Mounting, CRI $>80$ , 5 year Warranty, Minimum 4 lumens

**Justification:** Greenup County Board of Education (KY) worked with multiple providers to find materials to meet design intent and BABA compliance. Research was conducted from December 2023 through March of 2026. 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 or the construction material manufacturing requirements that are required for the project's completion. 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 the HVAC, Building Automation Controls, and LED Lighting updates are the primary upgrades the recipient is seeking.

**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. DOE'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:** DOE is seeking public and industry comments from all interested parties and encouraging current manufacturers of the subject products to submit comments

regarding potential availability. Comments should be submitted to the Program Officer, Dana Milling, at [dana.milling@hq.doe.gov](mailto:dana.milling@hq.doe.gov).