

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBJECT: Final: Project-Specific Nonavailability Waiver of Build America Buy America Act (BABA) Requirements to the Saddlehorn Apartments for Mini Split Heat Pumps and Vertical Terminal Air Conditioners (HUD Waiver #W-0000290)

Introduction

The U.S. Department of Housing and Urban Development (HUD) is issuing a final BABA waiver to an assistance recipient based on nonavailability of a single product for a single project.

Solicitation of Public Comment

The proposed waiver was posted on HUD's public facing webpage and a notice of the proposed waiver was posted to the Made in America website from September 10, 2026 to September 25, 2026, thus satisfying the requirement to publish any BABA project waiver and provide the public with fifteen (15) days to submit comments. HUD did not receive any public comments on this waiver during the public comment period. Therefore, no changes were made to the proposed waiver, except to replace references to the “proposed waiver” with references to the “final waiver.”

Background

The Buy America Preference set forth in section 70914 of BABA included in the Infrastructure Investment and Jobs Act (IIJA) (Pub. L. No. 117-58), requires that 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), HUD may waive the application of the Buy America Preference (BAP), 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 would increase the cost of the overall project by more than twenty-five (25) percent. All waivers must have a written explanation for the proposed determination; provide a period of not less than fifteen (15) days for public comment on the waiver; and be submitted to the Office of Management and Budget’s (OMB) Made in America Office for review to determine if the waiver is consistent with policy.

Summary

Final Waiver: HUD is issuing a project waiver of the requirements of section 70914 of BABA included in the IIJA, for mini split heat pumps and vertical terminal air conditioners in an infrastructure project funded through the Housing Trust Fund (HTF) and HOME Investment Partnerships Program (HOME).

Waiver Type: Nonavailability of domestic products in sufficient and reasonably available quantities or of a satisfactory quality.

Waiver Level and Scope: Project-level waiver for a single product for a single project. No other project will utilize the waiver.

Waiver Description: Project-specific nonavailability waiver of BABA requirements to the Saddlehorn Apartments in Miles City, Montana for mini split heat pumps and vertical terminal air conditioners.

Project Summary: The project is in Miles City, Montana. The project consists of the construction of the Saddlehorn Apartments, an affordable housing project located at 515 South Moorehead Avenue.

Length of the Waiver: From October 5, 2026 until the completion of the project, which is anticipated to be September 30, 2027.

Items Covered in Waiver: The State of Montana is being issued a waiver for mini split heat pump and VTAC systems, as described in detail below:

Product	Qty	PSC	NAICS	Technical Specifications
Mini-Split Heat Pump System (inside + outside unit)	4	4130	333415	Inside unit: high wall, 4-speed airflow, 208V/1, FLA 0.2. Outside unit — Cooling: 18 MBH, SEER2 21; Heating @47°F: 21.6, HSPF 9.6; 208V/1, FLA 9.31, MOP 20, max 54 dB, R-32 refrigerant
VTAC – Small	12	4130	333415	11,200 BTU/h; 10,400 BTU/h; 12.3 SEER2 / 10.6 EER2 / 6.3 HSPF2; 4.1 kW / 13,900 BTU/h; 208V, 30A MOP; 23" W × 23" D × 32" H
VTAC – Medium	12	4130	333415	17,800 BTU/h; 16,200 BTU/h; 12.1 SEER2 / 10.6 EER2 / 6.7 HSPF2; 4.1 kW / 13,900 BTU/h; 208V, 30A MOP; 23" W × 23" D × 32" H
VTAC – Large	6	4130	333415	22,600 BTU/h; 19,500 BTU/h; 12.1 SEER2 / 10.6 EER2 / 6.7 HSPF2; 4.1 kW / 13,900 BTU/h; 208V, 30A MOP; 23" W × 23" D × 32" H

Description of Efforts Made to Avoid the Need for a Waiver

Both the grantee and HUD made every effort to obtain domestically produced mini split heat pumps and vertical terminal air conditioners.

The grantee completed market research in April 2026 which consisted of a NIST-MEP supplier scouting request (conducted by the Montana Manufacturing Extension Center) and outreach to six (6) manufacturers or suppliers of mini split and VTAC systems. None of the manufacturers or

suppliers were able to provide BABA-compliant products that met the technical specifications of the project.

HUD conducted an online search of manufacturers and suppliers and did not locate any manufacturers or suppliers that could provide BABA-compliant products.

Anticipated Impact if No Waiver is Issued

Failure to grant a waiver for this project would result in the inability of the developer to install the required mini split heat pumps and vertical terminal air conditioners.

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. HUD has concluded that this assessment is not applicable to this waiver as this waiver is not based on the cost of foreign-sourced products.

Description of Award

Agency: United States Department of Housing and Urban Development (HUD)

Common Governmentwide Accounting Classification (CGAC) Code: 086

Title of Project: Saddlehorn Apartments

Recipient Name: State of Montana

Unique Entity Identifier (UEI): QP1EAYPHGCD6

Federal Award Identification Number (FAIN): M25-SG-30-0100 F25-SG-30-0100

Financial Assistance Listing Name: Housing Trust Fund (HTF) and HOME Investment Partnerships Program (HOME)

Assistance Listing Number: 14.275 and 14.239

Federal Financial Assistance Funding Amount: \$2,013,000.00

Total Estimated Infrastructure Expenditures: \$7,492,779.00