The “Buy American” Rules for HVAC Engineers

How the BAA and BABA provisions apply to Klimak (Italy)

START HERE — WHAT THE REP NEEDS TO KNOW

BAA — SELL AS-IS **Direct federal contract**

Sell the standard Italian unit? Yes — if the prime contract is at/above the dollar trigger (**$174K** equipment / **$6.683M** construction) and carries the Trade Agreements clause (FAR 52.225-5 / -11). Italy’s designated-country status then makes the unit count as **domestic** — no U.S. content, no penalty.

Below the trigger? Still sellable — BAA is a **price preference, not a ban** — but the unit counts as **foreign** and your bid takes a price-evaluation penalty (≈**6%** civilian, up to **50%** DoD) vs. a U.S. offer. You can still win if priced low enough.

Klimak provides: A **Certificate of Origin** stating the AHU is manufactured (substantially transformed) in Italy.

The rep / prime does: Confirm the contract is “covered” (value above trigger + TAA clause); the prime signs the trade-agreements certificate listing the AHU as a **designated-country end product**.

BABA — RECONFIGURE **Grant-funded project**

Sell the standard unit? No. The Italy waiver isn’t recognized. The unit must be built to U.S.-content rules to win — there is no dollar threshold that exempts it.

To qualify, the customer must: ① Confirm funding is a federal grant + which agency (FAA airport / AIP = 60% test). ② Reconfigure: **U.S. final assembly** + enough U.S.-made parts to clear ≥**55%** (FAA/AIP **60%**) of component cost.

Documents to prepare: Content Percentage Worksheet (cost + origin of every part), Final Assembly Questionnaire, country-of-origin evidence per part.

Then: Submit any waiver (e.g., FAA Type 3) within **15 days** of apparent low bid; the bidder signs the Buy America cert. Origin = where a part is **made**, not bought.

WHICH DOLLAR AMOUNT IS TESTED?	Only matters for **BAA**. The threshold is measured on the **government’s prime contract** — never Klimak’s invoice or the rep’s markup. **Direct equipment buy:** the government’s purchase-order value vs. **$174,000**. **Part of a construction project:** the **whole** construction contract vs. **$6,683,000** — the AHU’s own price doesn’t matter.

THE DETAILS

BAA · DIRECT FEDERAL CONTRACT

BAA — “Buy American” (FAR Part 25)

When it applies: A federal proposal or building project bought **directly** by a federal agency (NASA, DoD, VA, GSA).

The good news: Italy is a WTO GPA **designated country**, so the U.S.-content rule is **waived**.

The catch: Waiver applies at/above the trigger only (**$174K** supplies / **$6.683M** construction, 2026). Below it, the unit counts as **foreign** and bids take a price penalty (≈6% civilian, up to 50% DoD).

Requirement: The AHU is **“substantially transformed” in Italy** — fans, coils, controls assembled into the finished unit there.

Result: Above the trigger: treated as **domestic**; no 65% U.S. content needed.

BABA · FEDERAL GRANT–FUNDED

BABA — “Build America, Buy America”

When it applies: A state, municipal, university, or airport project paid for with **federal grant** money (EPA, DOT, HUD; FAA = AIP).

The challenge: BABA generally does **not** recognize the Italy waiver — and there is **no dollar threshold** that exempts the unit.

Requirement: ≥**55%** U.S. content by component cost **AND** final assembly in the U.S. (FAA/AIP: **60%**).

What counts: U.S.-**manufactured** parts vs. total parts — where a part is made, not bought. Unknown origin = foreign.

Result: A standard Italian-built unit does **not** qualify without reconfiguring sourcing + U.S. assembly.

BAA vs. BABA at a glance

Feature	Buy American Act (BAA)	Build America, Buy America (BABA)
Legal basis	41 U.S.C. §§ 8301–8305 / FAR Part 25	Infrastructure Investment & Jobs Act (2021) + agency BABA rules
Applies to	Direct federal procurement (NASA, DoD, VA, GSA)	Federally grant-funded projects (EPA, DOT, HUD, FAA-AIP)
Standard	“Domestic end product / construction material”	“Produced in the United States”
U.S. content	**65%** (rising to 75% in 2029)	**55%** manufactured products (FAA/AIP: 60%)
Dollar trigger for waiver	$174K supplies / $6.683M construction (2026)	None — no trade-agreement waiver
Below the trigger	Unit is **foreign**; bid takes a price penalty (≈6% / 50% DoD)	N/A — must meet U.S.-content rules regardless
Trade agreements (Italy)	**Waived** — above the dollar trigger only	Generally **not** recognized

Key terms, in plain English

Designated country	A nation — including Italy, via the WTO Government Procurement Agreement — whose products the U.S. treats like domestic ones. Helps only on BAA contracts above the dollar trigger.
Substantially transformed	Built into a new, finished product (the AHU) in that country — fans, coils, controls assembled into the unit at the Italian plant.
Price-evaluation penalty	A % the agency adds to a foreign bid only when comparing it to a U.S. bid (≈6% civilian, up to 50% DoD). Not a ban — if the foreign bid still wins, the agency pays the actual price.
Component cost	The cost of the parts that go into the unit — the basis for the % test. Final-assembly labor is excluded.
Dollar trigger (TAA threshold)	The prime-contract value that switches the trade-agreement waiver on. Measured on the government’s contract, not Klimak’s sale to a rep.

Revision 7 · June 2026 · General reference for Klimak (Italy). Thresholds current as of 2026; the WTO GPA procurement waiver is under federal review. Confirm project-specific requirements before bidding.