

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
And
Northern Border Regional Commission

Project Specific Non-Availability Waiver
Build America Buy America Product Waiver: Heat Pump System

1. Summary

Agency: Department of Housing and Urban Development (HUD) and the Northern Border Regional Commission (NBRC)

Common Governmentwide Accounting Classification (CGAC):

NBRC: 573

HUD: 086

Waiver: HUD is joining NBRC in issuing a project-specific 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 Families Flourish Northeast and the New Hampshire Community Development Finance Authority. This limited non-availability waiver would allow the recipient to purchase and use a non-compliant heat pump system.

Applicability: This waiver action permits the use of an all-in-one heat pump system. This product will be obtained by Families Flourish Northeast in Lebanon, NH 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 a heat pump systems

Summary of Items Covered in Waiver: all-in-one heat pump system

Waiver Justification Summary: The heat pump system incorporated into the design are unavailable from a BABA-compliant manufacturer.

Length of the Waiver: This waiver will be in effect upon approval and will remain in effect until December 1, 2026 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.

Heat pump system

This infrastructure project includes an all in one heat pump system. The system consists of 27 all-in-one vertical stack units. The unit is a packaged heat pump that integrates an inverter heat pump, energy recovery ventilation (ERV), a MERV 13 filter, and a bathroom exhaust fan into a single unit. The total for the heat pump system is \$1,177,705.00. (NAICS Code: 333415, PSC Code: 4120).

3. Description of Award

Title of Project: Families Flourish Northeast

Infrastructure Project Description and Location: The project will renovate an existing three-story building in Lebanon, NH to create a residential program for 14 women seeking treatment for co-occurring mental health and substance use disorders and their children.

Description of Project: Families Flourish Northeast received a \$1 million grant from NBRC, obligated in 2024, to build a state-of-the-art residential treatment facility and clinical program equipped to meet the critical need for residential treatment and support for children affected by parental substance use, expand NH's skilled substance use treatment workforce, and provide long-term benefits for women, children, families and communities. FFNE is committed to supporting lifelong health, healing and recovery for women, children, families, and communities by interrupting the intergenerational cycle of addiction. This grant assists with the increased costs and financing gap needed to complete construction for this project. The project and use of funds are eligible for NBRC grant purposes, and the applicant has the legal authority to enter into an agreement with NBRC. Families Flourish Northeast has substantial community support, and it is within the means of the organization to successfully own and operate the facility. Families Flourish Northeast received an allocation of \$500,000 in HUD CDBG grant funds awarded to the New Hampshire

Community Development Finance Authority that is to be administered through the grantee, subrecipient, and grant administrator.

Recipient Name:

NBRC: Families Flourish Northeast

HUD: New Hampshire Community Development Finance Authority

Unique Entity Identifier:

NBRC: MGU2JNWBD4M1

HUD: LA2HR1U97VC6

Federal Award Identification Number (FAIN)

NBRC: FAINGTCAT00017

HUD: B-24-DC-33-0001

Federal Financial Assistance Listing Number and Name:

NBRC: 90.601 Northern Border Regional Development

HUD: 14.218 Community Development Block Grants/Entitlement Grants

Federal Financial Assistance Funding Amount:

NBRC award amount: \$1,000,000.00

HUD award amount: \$500,000

Total Cost of Infrastructure Expenditure

\$8,300,000.00

4. Description of Covered Items

Manufactured Products: The waiver seeks an exception to the Buy America requirements for the following manufactured products:

- HVAC all-in-one system
 - NAICS: 333415
 - PSC: N041
 - Total Cost: \$1,177,705.00

5. Waiver Justification Summary

Anticipated Impact if No Waiver is Issued: Absent a waiver being 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. Further, alternative systems do not provide the heating, cooling and ventilation necessary for the combined residential and program space requirements.

The all-in-one system has been specified because of its high quality, energy efficiency, and reliability as well as its unique ability to operate at the low winter temperatures we see in New England. The combination of heating, ventilating, and cooling in one piece of equipment is unusual and allows fewer pieces of equipment to operate and maintain. The condensing unit is located within the product which eliminates the need for refrigerant line runs. There are some other manufacturers that offer a similar product but they are not rated by the Air Conditioning, Heating, & Refrigeration Institute, which develops performance-based standards for equipment designed and manufactured by HVAC industry participants. Further alternative systems compressors shutoff at higher outdoor air temperatures making them a poor choice for a project located in New Hampshire. The system also must be an air source heat pump. While domestic manufacturers exist they manufacture water-source heat pump unit and requires a centralized water loop to absorb and reject heat.

Description of Efforts Made to Identify Domestic Products: The all-in-one vertical stack heat pump units incorporated into the project's design are unavailable from a BABA compliant manufacturer. Research into mechanical equipment manufacturers and outreach to equipment suppliers was conducted from May 2025 through late July 2025. Heat pumps are considered manufactured products. The grantees research could not find manufacturers that are able to meet the 55% cost of components requirement for the manufactured products that are required for the project's completion. The construction company's research consisted of searching multiple manufactures online as well as outreach to suppliers with further support from mechanical trades and HVAC design engineers in our region. This outreach included the following suppliers: Thermal Environment Sales, L.J. Early Company, Inc., Sid Harvey Industries, Inc., Bell Simons Associates, Johnstone Supply, Trane, and Distribution Corporation of New England.

The research found that the heat pump equipment specified is not assembled in the United States and does not meet the 55% cost requirements, and that the manufacturers could not provide certification of the requirement. The grantee and construction company also reached out to several engineering firms, including Engineering Services of Vermont, and LN Consulting. Both noted that there are no equivalent domestic products available. Based on outreach efforts, it is determined that there are no domestic manufacturers that are able to provide the materials necessary to meet the BABA requirements for all products specified in this waiver.

In addition, NBRC's outreach included their own internet searches and contacting the Department of Energy which is considerably more experienced with sourcing the materials sought for this recipient. Those conversations did not yield a manufacturer that could meet the BABAA requirements.

HUD conducted market research: HUD conducted its own supplemental market research in addition to the efforts listed above. HUD's market research consisted of an Internet search that corroborated the grantee's and NBRC's findings. HUD could not locate any evidence of heat pumps that are BABA-compliant.

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. NBRC’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 waiver will be posted for fifteen days on both NBRC and HUD’s public facing webpage and the Made in America website to satisfy the requirement to publish any Build America, Buy America Act Project Waiver and provide the public with the opportunity to submit comments. Comments can be emailed to NBRC at rdourmashkin@nbrc.gov and HUD at BuildAmericaBuyAmerica@hud.gov.

For more information on the Build America, Buy America Preference, please reference <https://www.nbrc.gov/content/BABAA> and <https://www.hud.gov/hud-partners/baba>.