

Northern Border Regional Commission
Project Specific Non-Availability Waiver
Build America Buy America Product Waiver: HVAC System

1. Summary

Agency: Northern Border Regional Commission (NBRC)

Common Governmentwide Accounting Classification (CGAC):
NBRC: 573

Waiver: NBRC is proposing to issue 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 the Cornish Community Initiative. This non-availability waiver would allow the recipient to purchase and use non-compliant integrated HVAC systems.

Applicability: This waiver action permits the use of an integrated HVAC system. This product will be obtained by the Cornish Community Initiative for renovations to their building in Cornish Flat, New Hampshire, 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 the integrated HVAC system.

Summary of Items Covered in Waiver: HVAC system.

Waiver Justification Summary: The HVAC systems 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 September 30, 2029 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.

3. Description of Award

Title of Project: Cornish Community Initiative

Infrastructure Project Description and Location: The project is located in Cornish Flat, NH. They are intending to renovate an existing building. The requested upgrades are essential to meet modern energy-efficient standards and provide a functional climate for public use.

Description of Project: This project involves the repurposing and renovation of a newly donated building into a community resource hub. The facility will serve as a state-of-the-art workspace for remote workers and a venue for programming that fosters economic opportunity and childhood development. The requested mechanical equipment is essential to meet modern energy-efficiency standards and provide a functional climate for public use.

Recipient Name: Cornish Community Initiative

Unique Entity Identifier: NDQZHXJFNM86

Federal Award Identification Number (FAIN)

NBRC: FAIN23GNH10

Federal Financial Assistance Listing Number and Name:

NBRC: 90.601 Northern Border Regional Development

Federal Financial Assistance Funding Amount:

NBRC award amount: \$727,456.00

Total Cost of Infrastructure Expenditure

\$3,386,469.00

4. Description of Covered Items

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

- Inverter-Driven Heat pump

- PSC: N095
 - NAICS: 333415
- Heat Coils
 - PSC: N095
 - NAICS: 333415
- Unit Heater
 - PSC: N095
 - NAICS: 333414
- Cabinet Unit Heaters
 - PSC: N095
 - NAICS: 333414
- Dehumidifiers
 - PSC: N095
 - NAICS: 333415
- Humidifiers
 - PSC: N095
 - NAICS: 333415

5. Waiver Justification Summary

Anticipated Impact if No Waiver is Issued: Approval of this request is critical to the project's success. Without this waiver, the Cornish Library & Community Center would be forced to utilize less efficient, older-generation domestic equipment, resulting in significantly higher long-term operational costs. Furthermore, because the selected equipment is specifically engineered for the facility's unique space limitations, a denial would compromise the technical integrity of the renovation and lead to an immediate project standstill. To ensure this vital community resource can meet its functional, energy, and scheduling commitments, this waiver is essential.

Description of Efforts Made to Identify Domestic Products:

Comprehensive market research conducted from October 2025 through February 2026 confirms that high efficiency Variable Refrigerant Flow (VRF) and inverter-driven heat pump technology—essential for the Cornish Project's energy goals—is not currently manufactured in the U.S. Several manufacturers were contacted by the project contractor including Custom Comfort, Mitsubishi Electric, Daikin, Fujitsu, Toshiba-Carrier, Hisense, GE/ Haier, and Samsung. A Variable Refrigerant Flow (VRF) system, with heat recovery technology required due to the size of the project and climate in the Northeast. The VRF system is ideal for larger, multi-zone commercial projects, and offer higher efficiency, simultaneous heating/cooling, and can accommodate complex, long-piping designs (ideal for this library project), as opposed to mini splits that usually cater to single rooms or small homes (1-5 zones).

Domestic Content Verification (HVAC Accessories):

For items with “USA” origins (Humidifiers, Unit Heaters), the Cornish Community Initiative conducted an exhaustive effort to secure BABAA compliance letters from three major regional distributors: **The Granite Group, FW Webb, and Johnstone Supply**. While final assembly for brands like RenewAire, General Filter and Santa-Fe may occur in the U.S., these manufacturers were unable or unwilling to certify that their products meet the required 55% domestic content threshold. Critical components—including coils, compressors, motors, and electronic controls—are sourced globally. Suppliers confirmed they do not track cost breakdowns in a manner that allows for BABAA verification.

NBRC’s outreach included their own internet searches which did not yield a manufacturer that could meet the BABA requirements. After consultation with the Made In America Office NBRC alerted the grantee to the availability of a heat pump system through Rheems however after the grantee contacted them again they were advised the system they need would not comply with BABA.

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 posted for fifteen days on NBRC’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 rdourmashkin@nbc.gov.