

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

**1. Summary**

Agency: Northern Border Regional Commission (NBRC)

Common Governmentwide Accounting Classification (CGAC):  
NBRC: 573

Waiver: NBRC is 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 the Walpole Foundation. This limited non-availability waiver would allow the recipient to purchase and use non-compliant Variable Refrigerant Flow (VRF) HVAC system.

Applicability: This waiver action permits the use of a VRF HVAC system. This product will be obtained by the Walpole Foundation for a new school in Walpole, 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 VRF HVAC system.

Summary of Items Covered in Waiver: VRF HVAC system

Waiver Justification Summary: The VRF HVAC 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 September 30, 2027 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: The Walpole Village School

Infrastructure Project Description and Location: The project is located in Walpole, NH. They are intending to construct a 5,000 sq foot single story building. The proposed project aims to construct a one-story facility on the 4.1-acre property. The NBRC-funded project would include the construction of the new WVS facility, an outdoor playground, and a new parking lot, and would extend the existing town water and sewer utilities to the proposed building. The building will consist of five classrooms, a multi-use room playroom, vestibule entrance, office, warming kitchen, staff room, laundry/janitor room, and age-appropriate bathrooms. There will be a 2100 sq ft parking area and five separate playgrounds totaling 8642 sq ft.

Description of Project: The Walpole Foundation received a \$1 million grant from NBRC, obligated in 2024, to build a new school in Walpole, NH. This grant assists with the increased costs and financing gap needed to complete construction for this project. The Walpole Foundation has substantial community support, and it is within the means of the organization to successfully own and operate the facility.

Recipient Name: The Walpole Foundation

Unique Entity Identifier: GMUGUC4E3UN5

Federal Award Identification Number (FAIN)

NBRC: FAIN24SPBILNH01

Federal Financial Assistance Listing Number and Name:

NBRC: 90.601 Northern Border Regional Development

Federal Financial Assistance Funding Amount:

NBRC award amount: \$1,000,000.00

Total Cost of Infrastructure Expenditure

\$3,855,000.00

#### **4. Description of Covered Items**

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

- VRF HVAC System
  - NAICS: 333415
  - PSC: 4130

#### **5. Waiver Justification Summary**

Anticipated Impact if No Waiver is Issued: Absent a waiver 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.

Description of Efforts Made to Identify Domestic Products: HVAC Variable Refrigerant Flow heat pumps and indoor units provide the highest energy efficiency of any presently know HVAC systems as they rely on electricity. Research was conducted in the spring and early summer of 2025 through Design Day Mechanical- the engineer of record, a local HVAC company and the Construction Management Firm for the project. Design Day Mechanical reached out to FW Webb and other suppliers to determine availability of any domestic manufacturers of HVAC Variable Refrigerant Flow heat pumps and indoor units. These units are a manufactured product. Research outcomes determined that there were not any product manufacturers available domestically that could meet the 55% component requirements.

In addition, NBRC's outreach included their own internet searches. For prior searches for this product NBRC has contacted 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 BABA requirements.

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 was posted for fifteen days on NBRC 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. No comments were received.