



**Federal Financial Assistance (FFA) Waiver  
Submission Form**

Pursuant to [M-22-11](#), all waiver requests must include a detailed justification for the use of goods, products, or materials mined, produced, or manufactured outside the United States and a certification that there was a good faith effort to determine domestic manufacturing production capacity, including, where relevant, soliciting bids for domestic products supported by terms included in requests for proposals, contracts, and nonproprietary communications with potential suppliers. The waiver submission form will support efficiency of waiver submission and review process, and ensure agencies are providing the necessary information for the MIAO to run an efficient process in evaluating waivers as well as support a more standardized and predictable process. This form should be submitted alongside proposed waiver text, and is an opportunity for agencies to provide greater specificity with respect to the need for the waiver, market research conducted and additional considerations, as necessary.

1. Type of waiver:  Unreasonable Cost  Public Interest  Nonavailability
2. Recipient Name: **Berlin School District**
3. Recipient Unique Entity Identifier (UEI): **LSU1QVJAD997**
4. Federal Awarding Agency Name: **United States Department of Energy**
5. Awarding Agency Common Governmentwide Accounting Classification (CGAC) Code:
6. Federal Awarding Bureau/Office Name, if applicable: **Office of State and Community Energy Programs, United States Department of Energy**
7. Financial Assistance Listing Name: **State Energy Program**
8. Federal Assistance Listing Number: **81.041**
9. Federal Financial Assistance Program Name: **State Energy Program**
10. Federal Award Identification Number (FAIN), if available: **DE-EE0010041**

11. Federal Financial Assistance Funding Amount/ size of program(s):  
**Total estimated project cost:** \$331,764.00  
**Federal share:** \$150,000.00  
**Recipient share:**  
\$15,000.00 out of pocket (10% required recipient match to grant)  
\$106,083.47 to be financed through BMHS' utility company; Eversource, Smart Start on bill financing program.  
\$60,680.53 secured incentive from Eversource  
**Total estimated cost related to infrastructure only:** \$236,240.74  
**Federal share:** \$150,000.00  
**Recipient share:** \$86,240.74
- If different, identify the specific or estimated amount expected to be waived.
  - Funding mechanics: **Funding made available through the New Hampshire Department of Energy's School Energy Efficiency Development Grant Program. This program is 100% funded through the US Department of Energy's State Energy Program.**
  - Formula or discretionary; **Discretionary**
  - Is there pre-award authority? **New Hampshire Department of Energy**
  - Average size and length of projects i.e., are projects generally small and single-year or large, complex, and multi-year? **\$300,000.00 - \$400,000.00 average project size and are typically a single year project duration or less.**

12. Infrastructure project description and location (to the extent known). Type of infrastructure activities funded (i.e., EV chargers, solar and wind projects, road construction, building construction, etc.). Are products used in projects funded by other agencies? Have agencies pooled intelligence?

**1011 total LED New fixtures, retro's, lamps.**

**937 new LED fixtures of which 906 have advanced Blue Tooth Wireless integral occupancy/daylight harvesting controls through the InterAct Pro App from Signify.**

**74 Retrofit or LED lamps. Limited to the small HVAC spaces, trophy cases, elevator equipment Rm etc.**

**Wireless dimming in all classrooms, offices, conference rms.**

**Corridor wraps to be replaced with a new design of volumetric LED troffers located in center of space so that the light will be more evenly distributed.**

**Existing LED fixtures to remain (gym, locker rooms etc.) Only the few volumetric fixtures in hallways to be replaced to take advantage of advanced controls integral occupancy sensors.**

**Turnkey Proposal: Project management, material procurement, electrical subcontractor, hazardous and non hazardous materials disposal. Storage**

containers, weekly updates, timeline and scheduling, warranty.

**Location: Berlin Middle/High School  
550 Willard Street  
Berlin, NH 03570**

**Products are not funded by other agencies**

13. List of iron or steel item(s), manufactured products, and construction

**Steel frames, LED diodes, polycarbonate lenses, drivers and sensors**

14. material(s) proposed to be excepted from Buy America requirements, including name, cost, country(ies) of origin (if known), and relevant PSC and NAICS code for each: **EMC entered the origin countries being USA based on manufacturer part numbers for full fixture. However, the LED diodes and steel would likely be coming from China**

Mfg	Mfg Part No.	Country of Origin	Product Service Code	North American Industry Classification System
			PSC	NAICS
Remphos	RP-LBE-G2-10W-2FT-1L-840-10V-BAA	USA	6210	335132
Remphos	RP-LBE-G2-10W-4FT-1L-840-10V-BAA	USA	6210	335132
Remphos	RP-LBE-G2-10W-3FT-1L-840-10V-BAA	USA	6210	335132
Remphos	RP-LBE-G2-20W-4FT-2L-840-10V-BAA	USA	6210	335132
Signify	2FPZ38L840-4-DS-UNV-DIM-SWZCSRMBAC	USA	6210	335132
Signify	FSW430L840-UNV-DIM-SWZCS-BAC	USA	6210	335132
Signify	FSW860L840-UNV-DIM-SWZCS-BAC	USA	6210	335132
Remphos	RP-DRU-11N-14L-40K-WC-G2-AA	USA	6210	335132
Signify	2FGXG15L840-2-FS-UNV-DIM-SWZCS-BAC	USA	6210	335132
Signify	2FGXG38L840-4-FS-UNV-DIM-SWZCS-BAC	USA	6210	335132
ILP	WTZ4-3L-U-40-RAFL	USA	659499614979	N/A
ILP	WTZ8-6L-U-40-RAFL	USA	659499614993	N/A
Signify	FSW220L840-UNV-DIM-SWZCS-BAC	USA	6210	335132
Signify	FSW430L840-UNV-DIM-SWZCS-BAC	USA	6210	335132
Signify	FSW860L840-UNV-DIM-SWZCS-BAC	USA	6210	335132
ILP	RZ8-64W-U-40-FRAL-FI/ILBCP12	USA	659499615020	N/A
ILP	RZ8-64W-U-40-FRAL	USA	659499615037	N/A
Signify	EvoKit-CLKE-2X2-32L-24W-840-UNV-SWZCS-BAC	USA	6210	335132
Signify	EvoKit-CLKE-2X4-42L-29W-840-UNV-SWZCS-BAC	USA	6210	335132
Signify	UID8465/10	USA	5930	335313

15. Market Research and Outreach –Discussion of relevant market research and outreach conducted. The market research should address the following elements:

- When was the market research conducted (Should be current and no longer than past 18 months) **2/3 – 2/6 of 2023**

Where or how was the market research conducted, (e.g., posted a Request for Information on SAM.gov or searched the SBA’s Dynamic Small Business Search Database? **Inquiries and correspondence via email and phone with Product Manufacturers**

Did agency coordinate with Manufacturing institutes, ITA, I&A; US Commercial Service; Select USA, etc.??) **No**

- Who conducted the market research? **Energy Management Consultants, Inc. and product Manufacturers**

What were the results? **Manufacturers were not able to comply with BABAA requirements due to the reason that their LED lighting fixtures and advanced controls are not being *fully produced in the USA***

- For nonavailability waivers, the agency should have adequate information to determine that the items are not produced or manufactured in the U.S. in sufficient and reasonable quantity of a satisfactory quality.

**The U.S. Department of Energy (DOE) published a report that characterizes the global manufacturing supply chain for light-emitting diodes (LEDs) and LED lighting products. The analysis reveals that manufacturing of LED die and packages is concentrated in Asia, while manufacturing of LED lamps is dominated by China.**

**This report was prepared for: Lighting R&D Program Building Technologies Office Energy Efficiency and Renewable Energy US Department of Energy This report was prepared by: Guidehouse Inc. 1200 19th Street NW, Suite 700 Washington, DC 20036 Authors: Kyung Lee, Guidehouse Inc. Valerie Nubbe, Guidehouse Inc. Benjamin Rego, Guidehouse Inc. Monica Hansen, LED Lighting**

16. Certification that the Federal official or assistance recipient made a good faith effort to solicit bids for domestic products supported by terms included in requests for proposals, contracts, and nonproprietary communications with the prime contractor. 24 Executive Order, § 4(c). 25 IIA, § 70937(c)(2)(A). 26 IIA, § 70937(c)(2)(D):

**EMC has extended their industry outreach to manufacturers covering 32 product lines searching for a possible specification change that would meet the BABAA requirements despite having less comfort with their product offerings and support.**

EMC certifies that they have made a good faith effort to solicit bids for domestic products supported by the non-proprietary communications with the following prominent manufacturers below who have reviewed and addressed the request for BABAA compliance.

While these manufacturers were not able to comply with BABAA requirements due to the reason that their LED lighting fixtures and advanced controls are not being *fully produced in the USA* they can comply with BAA regulations and have signed Certificates of Compliance with Buy America Act as their products are being *assembled in the USA*.

Their responses to the initial BABAA request are as follows:

Signify response via emails dated 2/3/23 & 2/6/23:

*"The final answer is we do not have any product that is BABAA. The material being produced vs. being assembled is the issue we cannot overcome."*

*"My team said we are dead in the water. As I said, we currently do not meet any BABAA requirements. According to our team, this is the first "Indoor" request we have registered, all previous ones being outdoor roadways."*

Charles Polas  
Philips / Genlyte Solutions  
Channel Manager – Business development  
Distribution and Energy Solutions  
NY, NJ, New England  
207 332 3831  
[Charles.polas@signify.com](mailto:Charles.polas@signify.com)

**Signify offers the following 12 product lines, none of which can comply with BABAA**



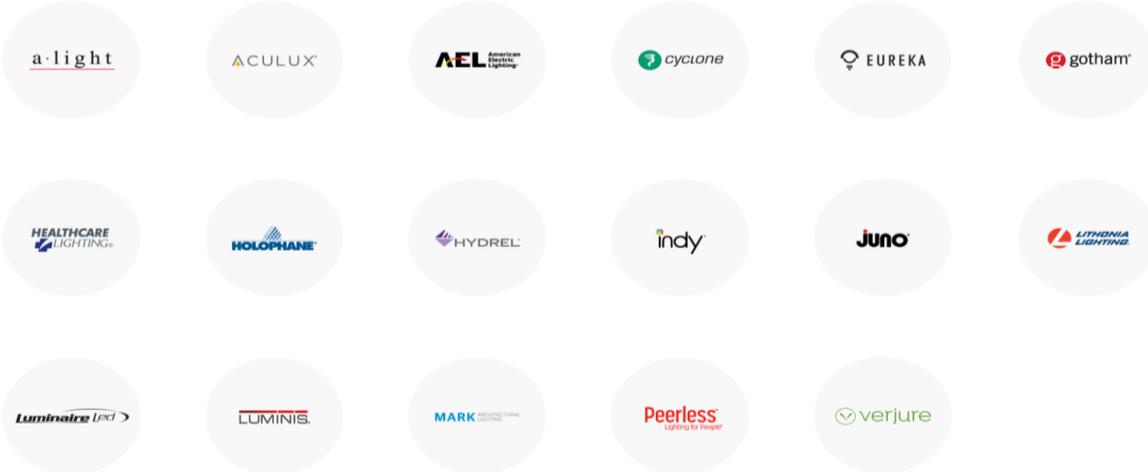
**Acuity response via email dated 2/13/23:**

*"Yes, we are aware of the BABA certification. Unfortunately, we do not offer this on any of our products right now. However, our VP of Public Policy is actively working on receiving this certification on a few of our products. The timeline is unknown at the moment as this takes extensive testing/research. All that to say, we are aware and are working on this. As I hear updates I will make sure to forward your way."*



**Morgan Phelps** (She/Her)  
Specification Sales Manager, Region 4  
**Acuity Brands**  
5 Penn Plaza, 24<sup>th</sup> Floor  
New York, NY 10001  
—  
m 404-345-6599  
o 520-771-5529  
[www.acuitybrands.com](http://www.acuitybrands.com)

**Acuity offers the following 17 product lines, none of which can comply with BABAA**



**Remphos/LFE Solutions response via email dated 2/7/23:**

*"There will be virtually no LED products that meet the new infrastructure investment and jobs act. Reason being, there is no US infrastructure for components to build LED products. RemPhos can meet 1605 Buy American Act. The components are Chinese. RemPhos will assemble both the bars and the drivers in the US. But that is all they can sign up for. No one is making LEDs or drivers from scratch in the US. We have been selling federal contracts based on 1605 ARRA Buy American Act. And right now, I'm losing business on that requirement because the federal government is accepting TAA as equal to BAA. So I lose business to someone shipping from China through Laos because they don't have to touch the product in the US."*

*Frank St. Onge*



Vice President National Sales and Vendor Relations  
10 Bradbury Lane  
Newburyport, MA 01950  
(508) 344-0616  
[frank@lfesolutions.com](mailto:frank@lfesolutions.com)

**Maxlite response via email dated 2/17/23:**

*"In the short term, MaxLite will not be an option. The requirement that all steel be manufactured in the US along with any casted product will be tough and very expensive."*

Jon Holmes  
Sales / Energy / Design



P: 617-519-1350(Primary)  
O: 781-935-8500 X3047  
[Online Calendar Booking](#)  
E: [jholmes@yusen.com](mailto:jholmes@yusen.com)  
[www.illuminate.com](http://www.illuminate.com)  
[www.yusen.com](http://www.yusen.com)

**ILP response via email dated 2/8/23**

**(following conversation depicted limitations with BABAA):**

*"Great speaking with you. Do you have the specifications for the BABAA? We are not familiar with this. For future reference we have a dedicated webpage and brochure all the ILP BAA products. We proudly manufacture approximately 75% of our sales at our factory in Sanford FL."*



**ILP**  
An ILLUMUS Brand

**Bill Derrick**  
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17. Justification - The justification explains the need for the waiver as connected to one of the three waiver types: nonavailability, unreasonable cost, or public interest. **Nonavailability: Domestic manufacturing does not currently exist to provide the steel frames, LED diodes, polycarbonate lenses, drivers and sensors required for the project's completion. After extensive outreach conducted by EMC, no domestic manufacturer was able to provide the materials necessary to meet the new BABAA requirements. As noted in USDOE's 2020 LED Manufacturing Supply Chain Study, "virtually no LED lamp manufacturing is taking place in the United States today.**

18. Narrative Discussion - Discuss the impact absent the waiver, actions the agency has taken to implement BABA and expected outcome.

**Grant will be pulled by the NHDOE and Berlin School District will have to cancel the efficiency project even though incentives and financing have already been secured through Eversource.**

**The school will not realize projected energy savings of \$19,417.00 and \$7,488.00 in maintenance savings annually. By not moving forward with the project the school will continue to see energy rates increasing and**

**availability of certain fluorescent lamps will cease after 2023.**

19. Required Assurance - The waiver must contain the required assurance from M-22-11. Include analysis whether significant cost advantage of 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 product? This is most relevant for unreasonable cost waivers, but all waivers are required to certify whether or not this applies (Not applicable to a nonavailability waiver):

20. Summary of relevant comments received through the public comment period.

**21. Waiver Form Submitter**

**Name (Last, First): Edin, Carl**

**Submitter Email: cedin@emcinc-online.com**

**Submitter Phone Number: 207-767-1313**

***-- END OF FORM***

