

**WAIVER NUMBER: BAW 2023-04**

**Issued: February 15, 2024**

**Expires: February 15, 2025**

## DEPARTMENT OF ENERGY

### Build America, Buy America Act

#### Buy America Requirement Project-Specific Nonavailability Waiver

**Waiver Summary:** The United States Department of Energy Office of State and Community Energy Programs is issuing a project-specific, nonavailability waiver of section 70914 of the Build America, Buy America Act (BABA) domestic preference requirement (Buy America Requirement) included in the Infrastructure Investment and Jobs Act (Pub. L. No. 117-58) for the steel and manufactured products as applied to specific LED fixtures, retrofits and lamps (steel frames, LED diodes, polycarbonate lenses, drivers and sensors) used in one federal financial assistance award for the Berlin School District. The duration of the waiver is 12 months from the date of issue. This waiver documents the approval of BABA Waiver Request BABA 2023-04.

**Recipient:** Berlin School District (LSU1QVJAD997)

**Federal Award Identification Number (FAIN):** DE-EE0010041

**Total estimated project cost related to infrastructure:** \$236,240

**Federal share:** \$150,000.00 **Recipient share:** \$86,240.74

**Federal Financial Assistance Program Name:** State Energy Program

**Financial Assistance Listing Name:** State Energy Program

**Federal Assistance Listing Number:** 81.041

**Funding Mechanics:** Funding for the infrastructure project is made available through the New Hampshire Department of Energy's School Energy Efficiency Development Grant Program, which is funded through the US Department of Energy's State Energy Program.

**Location of the project:** Berlin, New Hampshire.

**Project Summary:** The infrastructure project includes a total of 1,011 new LED fixtures, retrofits and lamps, which includes Blue Tooth Wireless integral occupancy/daylight harvesting controls and wireless dimming in all classrooms, offices and conference rooms. Iron, steel and manufactured products to be used in this project include steel frames, LED diodes, polycarbonate lenses, drivers and sensors. The list of specific items with corresponding PSCs can be found on DOE waiver request BABA 2023-04.

**Market Research:** Market research was conducted between February 3-6, 2023 via email correspondence and phone calls with product manufacturers. The market research was conducted by Energy Management Consultants, Inc. for the New Hampshire Department of Energy. Manufacturers were not able to comply with BABA requirements due to the fact that their LED lighting fixtures and advanced controls are not being fully produced in the USA. While these manufacturers were not able to

comply with BABA requirements due to their LED lighting fixtures and advanced controls are not being fully produced in the USA their products are assembled in the USA with foreign components.

**Justification:** Domestic manufacturing does not currently exist to meet the 55% cost of components requirement for LED diodes, polycarbonate lenses, drivers and sensors required for the project's completion, however, such products are found to be manufactured in the United States. Market research indicates that the type of steel frame needed for this infrastructure project are not manufactured in the United States. After extensive outreach, no domestic manufacturer was able to provide the materials necessary to meet the BABA requirements. As noted, the US Department of Energy's 2020 LED Manufacturing Supply Chain Study, "virtually no LED lamp manufacturing is taking place in the United States today."

**Impact Absent the waiver:** If the waiver were not issued, the Grant will be pulled by the New Hampshire Department of Energy and the Berlin School District will have to cancel the efficiency project even though incentives and financing have already been secured through the utility company. The school will not realize projected energy saving of \$19,417 and \$7,488 in maintenance savings annually. By not moving forward with the project the school will continue to see energy rates increase and availability of certain fluorescent lamps will cease after 2023.

**Summary of Public Comment:** The proposed waiver request was publicly posted by the Department of Energy for comments during the period of August 3 -18, 2023. No comments were received from the public, and therefore no substantive changes were made in response. Changes were made to the formatting of this waiver.