



## OFFICE OF GROUND WATER AND DRINKING WATER

WASHINGTON, D.C. 20460

### **SOLICITATION OF PUBLIC COMMENT FOR PROJECT-SPECIFIC BUILD AMERICA, BUY AMERICA NONAVAILABILITY WAIVER PROPOSAL**

**SUBJECT:** UNDER EVALUATION: Project-Specific Nonavailability Waiver of Build America, Buy America (BABA) Act Requirements to the South Adams County Water and Sanitation District in Colorado for Medium Voltage Accessories, Variable Frequency Motor Controllers, Power Actuated Valve Actuators, Flow Measurement, Level Measurement, Pressure Measurement, Temperature Measurement, and an Ion Exchange System for the Klein Facility Enhancement Project

**Intro:** This solicitation of public comment by the U.S. Environmental Protection Agency (EPA) is to evaluate a BABA waiver request submitted by an assistance recipient based on Nonavailability of Multiple product(s) for a single project.

This solicitation of public comment does not represent a final agency decision. The purpose of this proposal is to inquire whether potential alternative domestic products may be available that were not identified by the assistance recipient or through the EPA's domestic product research efforts, and whether other factors should be considered in the evaluation of a waiver.

The EPA has completed its market research efforts and was unable to identify alternative domestic products meeting the performance-based specifications, in sufficient and reasonably available quantities and of a satisfactory quality. The EPA makes every effort to locate domestic alternative products through its waiver process and the public comment period provides a meaningful opportunity to vet the Agency's interim research. In the EPA's experience, a viable domestic product is identified through public comment in many cases. Through this public comment period, commenters may provide information that indicates a waiver may not be needed. For example, if a specified item is found to be domestically available, the EPA would not issue a final waiver.

Public comments are requested for 15 days (specific dates noted on the EPA's website). Please submit comments to [BABA-OW@epa.gov](mailto:BABA-OW@epa.gov). Please include information in the subject of the email identifying it as a public comment on this waiver request, such as "Waiver Comment: Klein Facility Enhancement Project" or similar.

#### **Background**

The Buy America Preference set forth in section 70914 of the BABA 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 US.

Under section 70914(b), the EPA 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 US 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 U.S. will increase the cost of the overall project by more than 25 percent. All waivers must have a written explanation for the proposed determination; provide a period of not less than fifteen (15) calendar days for public comment on the proposed waiver; and submit the proposed waiver to the Office of Management and Budget's (OMB) Made in America Office for review to determine if the waiver is consistent with policy.

### **Summary**

Proposed Waiver: The Environmental Protection Agency is soliciting comments regarding whether to issue a project waiver of the requirements of section 70914 of the BABA included in the Infrastructure Investment and Jobs Act (Pub. L. No. 117-58), for medium voltage accessories, variable frequency motor controllers ("variable frequency drives" or VFDs"), power actuated valve actuators ("electric actuators"), flow measurement, level measurement, pressure measurement, temperature measurement, and an ion exchange system used in an infrastructure project funded through the Drinking Water State Revolving Fund.

Waiver Type: Nonavailability of a domestic product in sufficient and reasonably available quantities or of a satisfactory quality.

Waiver Level and Scope: Project level waiver for multiple products for a single project. No other project will utilize the waiver.

Proposed Waiver Description: Project-specific nonavailability waiver of BABA requirements to the South Adams County Water and Sanitation District (SACWSD), for medium voltage accessories, variable frequency motor controllers, power actuated valve actuator, flow measurement, level measurement, pressure measurement, temperature measurement, and an ion exchange system.

Project Summary: Construction of a new water treatment plant which utilizes ion exchange for the removal of Perfluorooctane Sulfonate (PFOS), and Perfluorooctanoic Acid (PFOA) and other per- and polyfluoroalkyl substances (PFAS). Project elements include the construction of the ion-exchange (IX) system, associated infrastructure, new building housing the electrical and control rooms, wet wells, piping, electrical equipment, and associated appurtenances.

Length of the waiver: From the effective date of the final waiver until December 31, 2029.

### Summary of Items Covered in the Proposed Waiver (including NAICS):

The SACWSD is seeking a waiver for the following items:

Medium voltage accessories

- NAICS: 423610
- Specification Section: 26 05 13

#### Variable frequency motor controllers

- NAICS: 334513
- Specification Section: 26 29 23

#### Power actuated valve actuators

- NAICS: 335314
- Specification Section: 40 05 57.23

#### Flow measurement

- NAICS: 334513
- Specification Section: 40 71 00

#### Level measurement

- NAICS: 334513
- Specification Section: 40 72 00

#### Pressure measurement

- NAICS: 334513
- Specification Section: 40 73 00

#### Temperature measurement

- NAICS: 334513
- Specification Section: 40 74 00

#### Ion exchange system

- NAICS: 221310
- Specification Section: 46 63 16 (packed bed ion exchange vessel system), 46 16 13 (ion exchange media), 46 61 53 (cartridge filters)

No domestic alternative products were identified by the assistance recipient, or through the EPA's market research completed in June 2024.

For additional information on the project and waiver request, see the attached original waiver request from the assistance recipient and technical specifications for the project.

#### **Description of Efforts Made to Avoid the Need for a Waiver**

Both, the South Adams County Water and Sanitation District and the EPA made every effort to obtain domestically produced medium voltage accessories, variable frequency motor controllers, power actuated valve actuators, flow measurement, level measurement, pressure measurement, temperature measurement, and an ion exchange system. This is both documented in the waiver request, and in the description of the EPA's extensive research efforts listed below.

Market research concluded on June 3, 2024. The market research process included thorough review of the waiver request submission, examination of domestic manufacturer catalogs and other technical data and marketing materials, personal communication with domestic manufacturers, and outreach to

contractors and engineers with expertise and familiarity with the project. During market research, the EPA contacted:

- 8 manufacturers and suppliers of variable frequency drives.
- 8 manufacturers and suppliers of ion exchange systems.
- 9 manufacturers of electric actuators.
- 11 manufacturers and suppliers of medium voltage cable accessories.
- 9 manufacturers and suppliers of panelboards.
- 10 manufacturers and suppliers of motor control centers.
- 7 manufacturers and suppliers of enclosed controllers.
- 9 manufacturers and suppliers of programmable logic controllers.
- 11 manufacturers and suppliers of flow measurement.
- 11 manufacturers and suppliers of level measurement.
- 9 manufacturers of pressure measurement.
- 10 manufacturers of temperature measurement.

The EPA identified these manufacturers in their attempt to find all potential domestic manufacturers of the above-mentioned products. As part of the EPA's and the assistance recipient's market research, BABA compliant manufacturers were identified for the following products: motor control centers, programmable logic controllers, enclosed controllers, and panelboards. Therefore, South Adams County Water and Sanitation District is no longer requesting to waive these items. No (zero) manufacturers indicated they could produce BABA-compliant medium voltage accessories, variable frequency motor controllers, power actuated valve actuators, flow measurement, level measurement, pressure measurement, temperature measurement, and an ion exchange system. In addition, due to the complexity and length of the project, SACWSD anticipates that they will need future project-specific nonavailability waivers for the Klein Facility Enhancement Project.

#### Description of Award

Recipient Name and/or Unique Entity Identifier (UEI): South Adams County Water and Sanitation District- WMYPSDHXA8T1

Federal Financial Assistance Identification Number (FAIN): N/A

Federal Financial Assistance Listing Name: Drinking Water State Revolving Fund

Federal Financial Assistance Listing Number: 66.468

Federal Financial Assistance Funding amount: \$77,959,752

Total Cost of Infrastructure Expenditures: \$80,000,000