OFFICE OF WASTEWATER MANAGEMENT

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 Act (BABA) Requirements to the City of San Leandro in California, for a Modular Membrane Aerated Biofilm Reactor (MABR) System and Modular Geocell Units for Woodchips

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 a product 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 an alternative domestic product 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 the specified item is found to be domestically available, 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. Please include information in the subject of the email identifying it as a public comment on this waiver request, such as "Waiver Comment: Ultrasonic Water Meters" 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 EPA 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 a modular membrane aerated biofilm reactor (MABR) system and modular geocell units for woodchips used in the San Leandro Water Pollution Control Plant (WPCP) project funded through the San Francisco Bay Program.

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

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

Proposed Waiver Description: Project-specific nonavailability waiver of BABA requirements to the City of San Leandro in California (recipient), for a modular MABR system and modular geocell units for woodchips.

Project Summary: The WPCP project in San Leandro, CA, will include installation of a modular nitrification system to convert ammonia from existing secondary-treated wastewater. A 6.9-acre wastewater retention pond will also be transformed into a multi-benefit treatment wetland. The project will incorporate a hybrid design combining vegetated subsurface flow wetlands along the basin perimeter slopes with shallow wetland areas. The modular geocell units will hold woodchips that will serve as media for denitrification, while allowing rapid flow-through to the open water wetland portion of the treatment system. This design will enhance nitrogen removal rates and create wet meadow habitats along the basin perimeter and potential interior dike features. The new treatment wetland will process up to 0.95 million gallons per day of effluent from the WPCP, achieving 75-90% nitrogen removal efficiency. The polished wastewater will then be discharged directly into San Francisco Bay through an existing outfall on the basin's western edge under an existing discharge permit.

Length of the waiver: From the effective date of the final waiver until January 31 2027, the estimated date of project completion.

Summary of Items Covered in the Proposed Waiver (including NAICS): The recipient is seeking a waiver for a modular MABR system (NAICS code 237110) and modular geocell units for woodchips (NAICS code 326199) which are manufactured products under BABA. The recipient proposes to procure these manufactured products of non-domestic origin. No domestic alternative products were identified by the recipient, or through the EPA's market research completed in September 2024.

For additional information on the project and waiver request, see the attached original waiver request from the assistance recipient, along with supporting documents detailing the technical specifications.

Description of Efforts Made to Avoid the Need for a Waiver

The recipient made a good faith effort to identify alternative domestic compliant products that met project specifications. The MABR system is unique in its flexibility, allowing for outdoor modular installation without the need for dedicated space within the main treatment plant area. Unfortunately, this system is manufactured outside the U.S., and is not produced domestically. No comparable U.S.-made product that meets the project's specific needs was identified by the recipient, or through the EPA's market research. Additionally, the recipient requires specialized modular geocell units to create a woodchip bioreactor system. This system is critical for converting nitrate from the MABR system into nitrogen gas via denitrification. The recipient's engineers determined that this is the only product that meets the specific requirements for such a system. No comparable U.S.-made alternatives that could fulfill the recipient's needs were found.

Description of Award

Recipient Name and/or Unique Entity Identifier (UEI): City of San Leandro, CA

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

Federal Financial Assistance Listing Name: San Francisco Bay Program

Federal Financial Assistance Listing Number: 66.126

Federal Financial Assistance Funding Amount: $2,975,302.00

Total Cost of Infrastructure Expenditures: $3,100,000.00

Please find below information pertaining to Buy America Build America (BABA) waivers for three (3) products intended for use in the following project:

City of San Leandro, CA Water Pollution Control Plant Treatment Wetland, with funding from the EPA's San Francisco Bay Water Quality Improvement Fund. I've attached an award letter for reference.

Based on information provided by EPA staff, the following information is needed to process a BABA waiver. Please let me know if you have any questions or require additional information.

1) A brief summary of the project:

The San Leandro Water Pollution Control Plant (WPCP) project in San Leandro, CA, includes installing a modular nitrification system to convert ammonia from existing secondary treated wastewater into nitrate. A 6.9-acre wastewater retention pond will be transformed into a multi-benefit treatment wetland. The project incorporates a hybrid design combining vegetated subsurface flow wetlands (terraced bioreactors) along the basin perimeter slopes and shallow free water surface (FWS) wetland areas. This design will enhance nitrogen removal rates and create wet meadow habitats along the basin perimeter and potential interior dike features.

The new treatment wetland will process up to 0.95 million gallons per day (mgd) of effluent from the WPCP, treated through an engineered nitrification system achieving 75-90% efficiency. Expected influent nitrate concentrations will range from 30-36 mg/L. The polished wastewater will then be discharged directly to San Francisco Bay through an existing outfall on the basin's western edge under an existing Clean Water Act permit.

(2) a description and explanation of the need for the waiver for the product(s) in question:

The Proposed Project at the San Leandro Water Pollution Control Plant requires the

implementation of advanced technologies to enhance its treatment capabilities. Due to the specific requirements and constraints of the project, certain products essential for its completion are not readily available from U.S. manufacturers. This necessitates the request for BABA waivers for the following three products:

1. **Modular MABR System:** The project design includes a modular nitrification system, [redacted], strategically placed outside the main footprint of the treatment plant on an existing asphalt surface near the treatment wetland project. This system is unique in its flexibility, allowing for outdoor modular installation without the need for dedicated space within the main treatment plant area. Unfortunately, this system is manufactured outside the U.S., and the manufacturer cannot produce it domestically. We have not identified comparable U.S.-made products that meet the project's specific needs. We request a waiver for both the pilot-scale testing unit, which should be leased in late-2024, and the full-scale system, which would be purchased in 2025, pending the pilot test results.

2. **Linear Low-Density Polyethylene (LLDPE) Geomembrane Liner:** For the basin liner, we have not yet selected a preferred product or vendor and plan to delegate this selection to the contractor. We know that the EPA's BABA office recently issued a BABA exemption for a similar type of liner. Despite our efforts, we have been unable to find a suitable U.S.-manufactured alternative that meets our project's technical and quality requirements. We welcome suggestions for potential U.S. sources for this product.

3. **Modular Geocell Units for Woodchips:** The project requires specialized modular geocell units, specifically [redacted], to create a woodchip bioreactor system. This system is critical for converting nitrate from the MABR system into nitrogen gas via denitrification. Our engineers have determined that this is the only product that meets the specific requirements for such a system. Currently, no comparable U.S.-made alternatives can fulfill the project's needs.

Given these circumstances, the waiver request is crucial for the timely and effective completion of the project, ensuring that we meet our environmental and regulatory goals while utilizing the best available technology. We are open to exploring any viable U.S. alternatives and appreciate any suggestions or feedback that could help meet the project's specifications within the framework of BABA requirements. Specifications for each of these products are attached to this email.

(3) A brief summary of the due diligence conducted in search of domestic alternatives (which could include correspondence between assistance recipient and supplier/distributors):

1. **Modular MABR System:** We have not identified a suitable alternative for this product as the project requires a modular nitrification system that can treat ~1 million gallons per day of wastewater. We have performed internet research for

other major wastewater treatment providers and communicated directly with [redacted] to identify whether a domestic source for their products might be available. [redacted] is attempting to develop domestic manufacturing capacity but will not be able to do so soon. As stated above, this system is unique in its flexibility, allowing for outdoor modular installation without needing dedicated space within the main treatment plant area. We have not identified comparable U.S.-made products that meet the project's specific needs. We request a waiver for the pilot-scale testing unit, which should be leased in late 2024, and the full-scale system, which would be purchased in 2025, pending the pilot test results.

2. **Linear Low-Density Polyethylene (LLDPE) Geomembrane Liner:** For the basin liner, we have not yet selected a preferred product or vendor and plan to delegate this selection to the contractor. We are aware that the EPA's BABA office recently issued a BABA exemption for a similar type of liner. Despite our efforts, we have been unable to find a suitable U.S.-manufactured alternative that meets the technical and quality requirements of our project. We welcome suggestions for potential U.S. sources for this product.

3. **Modular Geocell Units for Woodchips:** The project requires specialized modular geocell units, specifically [redacted] to create a woodchip bioreactor system. This system is critical for converting nitrate from the MABR system into nitrogen gas via denitrification. Our engineers have determined that this is the only product that meets the specific requirements for such a system. Currently, there are no comparable U.S.-made alternatives that can fulfill the project's needs. The manufacturer is based in [redacted] and would need to ship the product to California.

(4) The quantity and materials of the product(s) in question:

1. **Modular MABR System:** The City of San Leandro is seeking to purchase a single system comprised of multiple modular units capable of treating one million gallons of wastewater per day. The City also seeks a waiver to lease a single unit for one year to test the system's treatment efficiency.

2. **Linear Low-Density Polyethylene (LLDPE) Geomembrane Liner:** Project engineers estimate that approximately 315,000 square feet of Impermeable geosynthetic liner 40-mil single-textured LLDPE are needed.

3. **Modular Geocell Units for Woodchips:** Project engineers estimate approximately 3,050 Polystorm crates will be required.

(5) All engineering specifications and project design considerations relevant to the product(s) in question,

See attached.

(6) The approximate unit cost of items (both foreign and domestic) in addition

to an estimated cost of the materials and overall project:

1. **Modular MABR System:** The full cost for a system capable of treating one million gallons per day is [redacted], based on a 2023 quote. This Project also seeks a waiver for a pilot project involving the leasing of a small unit to establish treatment performance. The cost for a one year lease is [redacted]
2. **Linear Low-Density Polyethylene (LLDPE) Geomembrane Liner:** Approximately 315,000 square feet of 40-mil liner material is required, at approximately [redacted] per square feet, for a total cost of [redacted] Individual products have not been priced.
3. **Modular Geocell Units for Woodchips:** Approximately [redacted] per unit and 3,050 units, for a total of [redacted]

(7) The date any products will be needed on site in order to avoid significant project schedule disruptions:

1. **Modular MABR System:** The Project requires the leased unit by the end of 2024. The full-scale units can be purchased and received by the end of 2025.
2. **Linear Low-Density Polyethylene (LLDPE) Geomembrane Liner:** Spring 2025
3. **Modular Geocell Units for Woodchips:** Spring 2025

(8) Any other pertinent information relevant to EPA's consideration of the waiver (e.g., if relevant for SRF projects: whether the project is designated as an equivalency project, the date the plans and specifications were submitted to the state, the date of construction initiation, expected date of project completion, any special considerations such as local zoning and building ordinances, seismic requirements, or noise or odor control requirements).

This Project intends to initiate pilot testing in the fall of 2024 or Spring of 2025 and full construction in the Fall of 2025.

Thank you for your consideration. Please feel free to contact me with any questions or concerns.

Many thanks,

Ian Wren

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[redacted]

[redacted]