



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 Act (BABA) Requirements to the Hawaii Department of Water Supply for Emergency Well Repair Pump Prepositioning for Deep Well Pump Assemblies (09-DWB-0027)

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 single 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 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, 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: Hawaii Department of Water Supply", or "Pump Assembly Repair", 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 replacement pump assemblies used in an infrastructure repair 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 a single product for a single project.

Proposed Waiver Description: Project-specific nonavailability waiver of BABA requirements to the Hawaii Department of Water Supply for deep well pump assemblies to be used in repair of deep well systems.

Project Summary: The proposed project location is in the County of Hawaii, on the island of Hawaii. The project consists of deep well repair and replacement of pump assemblies, where the replacement assemblies will be pre-positioned and made ready for use. The project requires Baker Hughes pump assemblies including submersible motor, sensor with surface choke panel, surface electronics panel, sensor cable, and non-shielded, armored pump cable. Due to months long lead times on replacement products, the intent of the waiver is to prevent a lengthy shut-down of one of the two deep wells on the island. Baker Hughes assemblies are required for the system to resume full integration and fully efficient, synced operations.

Length of the waiver: From the effective date of the final waiver until December 31, 2027.

Summary of Items Covered in the Proposed Waiver (including NAICS): Items covered under the waiver consist of pump assemblies (NAICS 333996) including submersible motor, sensor with surface choke panel, surface electronics panel sensor cable, and non-shielded, armored pump cable.

Description of Efforts Made to Avoid the Need for a Waiver

Both, the Department of Water Supply, and the EPA, made every effort to determine whether Baker

Hughes could domestically produce deep well pump assemblies with the technical and performance specifications that are required for the deep well system to be fully integrated. This is both documented in the Department's waiver request, and in the description of EPA's research efforts listed below.

Market research concluded on October 18, 2024. Due to the proprietary nature of this waiver request, communication with Baker Hughes included an evaluation of whether the replacement assemblies could both meet the technical and performance specifications of the project and be produced domestically.

Based on the technical evaluation conducted by Cadmus, the claim that BABA-compliant pumping assemblies that meet the project's specifications are not available is supported. The manufacturer indicated that pumping assemblies that meet the technical specifications are not BABA-compliant.

Description of Award

Recipient Name and/or Unique Entity Identifier (UEI): Department of Water Supply, EPPEQ6N7ZH13

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 (SRF)

Federal Financial Assistance Funding amount:

\$800,000.00

Total Cost of Infrastructure Expenditures:

\$400,000.00