



OFFICE OF WASTEWATER MANAGEMENT

WASHINGTON, D.C. 20460

DECISION MEMORANDUM

SUBJECT: Project-Specific Nonavailability Waiver of Build America, Buy America Act Requirements to the Urbana and Champaign Sanitary District in Illinois, for Process Monitoring Instrumentation and Combined Heat and Power Generation Systems (Engines)

FROM: Andrew Sawyers, Director

Decision

The U.S. Environmental Protection Agency is hereby issuing a project waiver pursuant to the Buy America Preference set forth in section 70914 of the Build America, Buy America Act (BABA) included in the Infrastructure Investment and Jobs Act (Pub. L. No. 117-58), under the authority of section 70914(b), to the Urbana and Champaign Sanitary District in Illinois (Applicant) for dissolved oxygen (DO) probes, oxidation-reduction potential (ORP) probes, terminals and controllers, total solids meters, and combined heat and power (CHP) engines. This waiver permits the use of these products, manufactured outside of the United States, in the 2023 Improvement Project (project), because no domestic manufacturers produce alternatives that meet the technical specifications of the project. The waiver is applicable to expenditures made for DO probes, ORP probes, terminals and controllers, total solids meters, and CHP engines from the effective date of the final waiver until February 28, 2027.

This is a project-specific waiver. Any other projects that wish to use the same product must apply for a separate waiver.

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

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 multiple products for a single project.

Waiver Description: Project-specific nonavailability waiver of BABA requirements to the Urbana and Champaign Sanitary District in Illinois, for DO probes, ORP probes, terminals and controllers, total solids meters, and CHP engines for the 2023 Improvements Project.

Project Summary: The project includes facilities improvements at two treatment plants owned and operated by the Applicant: the Southwest Treatment Plant and the Northeast Treatment Plant. The improvements will increase the design maximum flow capacity to 20.7 MGD. Improvements at the Southwest Treatment Plant include new primary treatment and aeration piping and diffuser replacements. As part of the improvements, analytical instruments including DO sensors and ORP sensors for aeration controls and monitoring, and total solids meters for primary sludge monitoring will be installed. All solids produced at the Southwest Treatment Plant are trucked to the Northeast Treatment Plant for solids treatment and final disposal, and the new primary treatment improvements will increase the solids loading to the existing solids treatment. With aging CHP engines and the anticipated increase in solids loading and biogas production, the Applicant also plans to replace the existing CHP engines with new engines.

The project is currently open for bids and construction is anticipated to begin in January 2025. Substantial completion is estimated to take place in January 2027 and final completion in February 2027.

Length of the waiver: From the effective date of the final waiver until February 28, 2027.

Summary of Items Covered in the Waiver (including NAICS): This waiver covers (15) DO probes (NAICS: 334513); twelve (12) ORP probes (NAICS: 334513); five (5) terminals and controllers (NAICS: 334513); one (1) total solids meter (NAICS: 334513); and two (2) CHP engines (NAICS: 221117). All of these products are categorized as manufactured products under BABA. The Applicant intends to procure these products manufactured outside the United States. The total cost of these expenditures is estimated at approximately \$1,261,500. No domestic alternative products were identified by the Applicant, or through the EPA's market research.

Description of Efforts Made to Avoid the Need for a Waiver

The Applicant made good-faith effort to identify domestically produced DO sensors, ORP sensors, total solids meters, and CHP engines and was unable to do so. In addition, the EPA conducted market research in September 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, and communication with domestic manufacturers. During market research for instrumentation, fifteen (15) manufacturers and suppliers were researched and contacted. No (zero) manufacturers indicated that they could produce comparable BABA-compliant DO sensors, ORP sensors, or total solids meters and

the associated terminals and controllers.

During market research for CHP engines, nine (9) manufacturers and suppliers were researched and contacted. No (zero) manufacturers indicated that they could produce comparable CHP engines meeting the technical specifications and size requirements of the project.

Assessment of Cost Advantage of a Foreign-Sourced Product

Under OMB M–24–02, agencies are expected to assess “whether a significant portion of any cost advantage of a 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 products” as appropriate before granting a public interest waiver. The EPA’s analysis has concluded that this assessment is not applicable to this waiver as this waiver is not based on the cost of foreign-sourced products.

Summary of Public Comments

A memorandum soliciting public comments and the Applicant’s waiver request were posted on the EPA’s public facing webpage and a notice of the waiver request was also posted to the Made in America website on October 17, 2024, to satisfy the requirement to publish any proposed project-specific waiver and provide the public with fifteen (15) days to submit comments. The EPA sought public and industry comment from all interested parties and encouraged potential manufacturers of the product in question to submit comments regarding anticipated timeframes for shifting manufacturing to a domestic market. The comment period for the proposed waiver closed on November 1, 2024. No (zero) comments were received in response to this waiver request and therefore no substantive changes were made between this waiver and the version that was posted for public comment.

Description of Award

Recipient Name and/or Unique Entity Identifier (UEI): Urbana and Champaign Sanitary District

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

Federal Financial Assistance Listing Name: Clean Water State Revolving Fund

Federal Financial Assistance Listing Number: 66.458

Federal Financial Assistance Funding Amount: The Applicant anticipates receiving a total of \$43.9M of funding from the Illinois Environmental Protection Agency Clean Water State Revolving Fund.

Total Cost of Infrastructure Expenditures: \$1,261,500