



March 3, 2025

Jorge Medrano
Environmental Engineer, DWSRF Team
Environmental Protection Agency
Via email dwsrfwaiver@epa.gov

Dear Mr. Medrano,

A Drinking Water State Revolving Loan Fund project funded by recycled funds (Tier II) is requesting a waiver on the American Iron and Steel requirement for the Drinking Water State Revolving Loan Fund. The State of New Mexico, on behalf of the community, is requesting a waiver based on eligible conditions set forth in the AIS final guidance memo 3-20-2014 (AIS Memo).

The AIS Memo states "The assistance recipient may receive a waiver at any point before, during, or after the bid process, if one or more of three conditions is met:

1. Applying the American Iron and Steel requirements of the Act would be inconsistent with the public interest;
2. Iron and steel products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or
3. Inclusion of iron and steel products produced in the United States will increase the cost of the overall project by more than 25 percent."

The community, Eastern New Mexico Water Utility Authority, would like to apply for a waiver based on the first eligibility, the project is co-funded with the Bureau of Reclamation (BOR). The BOR has provided a BABA waiver for the same part (attached).

NMFA is requesting a waiver under condition number one, inconsistent with the public interest for an in-line plunger valve ANSI 150 class assemblies (V960), complete with electric modulating type actuator for flow control and isolation (specifications are attached).

Please direct follow up questions to Todd Johansen tjohansen@nmfa.net or 505-240-3467.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Todd Johansen". The signature is fluid and cursive, with the first name "Todd" and last name "Johansen" clearly distinguishable.

Todd Johansen
Senior Program Administrator

Attachments:
DOI USBR Final Nonavailability ENMRWS Plunger Valve 10-31-24.
Waiver part specifications

**Department of the Interior
U.S. Bureau of Reclamation**

**Buy America Nonavailability Project Level Waiver
Eastern New Mexico Rural Water System Plunger Valves**

1. Summary

Agency: Department of the Interior, Bureau of Reclamation (USBR)

Proposed Waiver: The Department of the Interior (DOI), USBR is issuing a nonavailability waiver of the requirements of section 70914 of the Build America, Buy America Act included in the Infrastructure Investment and Jobs Act (Pub. L. No. 117-58) for plunger valves used in infrastructure projects funded through the Eastern New Mexico Rural Water System. This waiver action permits the use of a non-domestic one (4) four-inch and one (12) twelve-inch plunger valve for the Eastern New Mexico Rural Water System, funded with the Federal Financial Assistance award, R22AC00674.

Waiver type: Nonavailability of a domestic product

Waiver level: Project level waiver

Summary of items covered in the waiver: Plunger Valves

Waiver justification summary: Plunger Valves are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality for use in the identified project.

Length of the waiver: The effective date of this waiver is from date of issue to October 31, 2025. The waiver will apply to eligible expenditures incurred by the recipient on or after the effective date of the final waiver for the period that the waiver is active.

The recipient has determined that the USBR Rural Water Program Public Interest waiver does not cover the plunger valve requirement because the procurement will not be done under a contract that meets the Program Public Interest waiver requirement of “for contracts entered into prior to May 14, 2023, that resulted from solicitations published before May 14, 2022”.

2. Background

The Buy America Preference set forth in section 70914 of the Build America, Buy America Act 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 United States.

Under section 70914(b), the Department of the Interior 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 United States 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 United States 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 15 calendar days for public comment on the proposed waiver; and submit the proposed waiver to the Office of Management and Budget Made in America Office for review to determine if the waiver is consistent with policy.

3. Description of Award

Title of project: Eastern New Mexico Rural Water System.

Infrastructure project description and location: The Eastern New Mexico Rural Water System is a regional rural water supply project located in east-central New Mexico. The overall purpose of the project is to provide potable water from the Ute Reservoir in northeastern New Mexico on the Canadian River to the cities of Clovis, Elida, Portales, Texico, unincorporated areas in Roosevelt and Curry counties, and Cannon Air Force Base for municipal, commercial, and industrial use.

The overall project will be built in several phases that will be determined by funding availability.

Description of Project: The proposed project consists of the following major components:

- About 130 miles of water conveyance pipelines.
- A raw water intake structure and pump station located at the south shore of the Ute Reservoir, with a flow rate of 28 million gallons per day (mgd).
- A 28 mgd raw water booster pump station located at the base of the Caprock and a 1-million- gallon storage tank at the top of the Caprock in Quay County.
- A 28 mgd water treatment plant in Curry County with a finished water booster pump station to service downstream municipalities.
- Finished water booster pump station in Roosevelt County to convey finished water to Elida.
- Pressure reducing stations, where required, to serve Cannon Air Force Base and the communities of Clovis, Elida, Portales, and Texico.

Recipient Name: Eastern New Mexico Water Utility Authority (ENMWUA)

Unique Entity Identifier (UEI): JKM8S9ZEA3Z8

Federal Award Identification Number (FAIN): This project is funded through a financial assistance grant: R22AC00674

Federal Financial Assistance Listing: 15.553 – Eastern New Mexico Rural Water System - Type of Assistance: B-Project Grants (Cooperative Agreements)

Federal financial assistance funding amount: \$504,274,372.00 (R22AC00674)

Total cost of infrastructure expenditures, including all Federal and non-Federal funds:
\$672,365,830.00 (R22AC00674)

4. Description of Covered Items

Manufactured products: This waiver seeks an exception to Buy America requirements for the following items:

- **Plunger Valves**

Name of Product: Plunger Valve Valves covered under this wavier are one four inch and one twelve-inch plunger valve.



NAICS: 332911 - Valves for water works and municipal water systems manufacturing

PSC: S114 – Utilities-Water

FSC: 4810 – Valves, Powered

5. Waiver Justification Summary

Anticipated impact if no waiver is issued:

The plunger valves referenced above are essential products that are required for the completion of the project. These products are not manufactured within the United States. If a waiver is not approved, the impact will be that this project will not be able to be implemented successfully.

Description of efforts made to identify domestic products:

The Engineering firm contracted by the ENMWUA to perform engineering services and project management performed industry outreach by contacting vendors and the main suppliers of plunger valves. The Engineering firm also recertified their prior market research in August 2024.

Market research of plunger valves resulted in no known U.S. manufacturer being located for this item. ENMWUA submitted a Supplier Scouting report from the National Institute of Standards and Technology (NIST). NIST listed several domestic vendors that could produce plunger valves. However, ENMWUA contacted these vendors and all of them either responded saying that they could not produce the plunger valve under the required specifications or did not respond at all. Plunger valves are used in the water markets for flow control globally including within the United States. There are no known manufacturers of plunger valves with the required specifications in the United States.

Additionally, the Federal Emergency Management Agency (FEMA) conducted limited market research outlined in its Build America Buy America Act Approved Nonavailability Waiver:

Weber Basin Water Conservancy District Davis Aqueduct Reach 1 Parallel Pipeline Double Offset Butterfly Valves, Plunger Valves, and Actuators, effective March 15, 2024.

FEMA's research resulted in similar findings and noted that exact valve specifications could not be met therefore there are no approved plunger valve equals.

Statement of good faith effort to find domestic products:

The ENMWUA through its Engineering firm has put forth a good faith effort through industry outreach by contacting vendors and main suppliers of this product. All suppliers contacted could not provide the product in a raw to finished usable form within the United States.

Expectations at the conclusion of the waiver:

Ongoing market research will seek to identify any opportunities for domestic sourcing of plunger valves for use within this project or other projects going forward. Industry has not yet indicated any clear intention to move manufacturing of the compatible products to the U.S., though it is possible that companies could adjust manufacturing. This waiver will allow the recipient to proceed with the materials necessary to complete the project as designed. Reclamation will continue to work with future recipients to evaluate possible domestic sources of supply for upcoming or new projects to achieve compliance going forward.

6. 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. DOI’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.

7. Solicitation for Comments

This waiver was posted on September 18, 2024, in satisfaction of the requirement to publish any proposed Buy America Project Waiver and provide the public with fifteen (15) days to submit comments. The Department did not receive any comments during this period that closed on October 2, 2024. The USBR will continue to explore domestic sources for plunger valves for future rural water system grants including the two forty-two inch, one four inch, and one twenty-four-inch valves that will be required to complete this ENMWUA project between 2027 and 2029.

For more information on the Build America, Buy America Preference, please reference www.doi.gov/grants/buyamerica or MadeinAmerica.gov.

This waiver request was submitted to the EPA by the state of New Mexico and applies only to the project in the subject line. All supporting correspondence and/or documentation from contractors, suppliers or manufacturers included as a part of this waiver request was done so by the recipient to provide an appropriate level of detail and context for the submission. There may be documents with project diagrams, schedules, and supplier correspondence in formats that do not meet the Federal accessibility requirements for publication on the Agency's website. Hence, these exhibits have been omitted from this waiver publication. They are available upon request by emailing DWSRFWaiver@epa.gov.