



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 Manufactured Products Requirements to the Clark County Reclamation District in Nevada, for a Triple Quadrupole Liquid Chromatographer/Mass Spectrometer

Intro: This solicitation of public comment by the U.S. Environmental Protection Agency (EPA) is to evaluate a Build America, Buy America Act (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(s) are found to be domestically available, EPA would not issue a final waiver or may remove select items from the 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: Clark County LC/MS" or similar. The proposed waiver will also be posted to the Made in America website.

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 U.S.

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 a Triple Quadrupole Liquid Chromatographer/Mass Spectrometer (LC/MS) used in an infrastructure project funded through the Clean Water State Revolving Fund – Emerging Contaminants Grant.

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. No other project will utilize the waiver.

Proposed Waiver Description: Project-specific nonavailability waiver of BABA requirements to the Applicant in Nevada, for an LC/MS for the Clark County Water Reclamation Emerging Contaminants Project.

Project Summary: The project in Clark County, Nevada, consists of purchasing a triple quadrupole LC/MS as well as related training and software for the testing of emerging contaminants in wastewater. This project is funded with an Emerging Contaminants Grant. The grant enables the Applicant to take necessary steps to identify and address emerging contaminants. The Applicant will use the LC/MS to identify emerging contaminants in their wastewater effluent including PFAS, pharmaceuticals, personal care products, and illicit drugs. A requirement of the grant is to test for PFAS and the equipment is integral to the wastewater treatment process.

Length of the waiver: From the effective date of the final waiver until project completion, which is estimated to be December 31, 2026.

Summary of Items Covered in the Proposed Waiver (including NAICS): The Applicant is seeking a waiver for an LC/MS (NAICS code 334516, PSC code 6695), which is a BABA manufactured product.

For additional information on the project and waiver request, see the attached original waiver request from the assistance recipient and supporting documents.

Description of Efforts Made to Avoid the Need for a Waiver

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, inquiries of regional project officers, and outreach to

contractors and engineers with expertise and familiarity with the project. During market research, which was conducted in December 2024, the EPA contacted five (5) manufacturers and suppliers for the LC/MS. There were no (zero) manufacturers identified who indicated they could produce a BABA-compliant product that met the technical specifications of the project. One (1) manufacturer indicated that they are able to produce a BABA-compliant triple quadrupole liquid chromatographer. However, this alternative product does not meet the technical specifications of the mass spectrometer required by the project. While this manufacturer also offers a mass spectrometer, it is not manufactured in the United States.

Description of Award

Recipient Name and/or Unique Entity Identifier (UEI): MSTUUDL7AEG5

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

Federal Financial Assistance Listing Name: Clean Water State Revolving Fund – Emerging Contaminants Grant

Federal Financial Assistance Listing Number: 66.458

Agency CGAC: 068

Federal Financial Assistance Funding Amount:

\$501,160.20



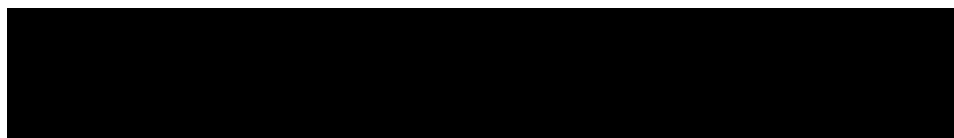
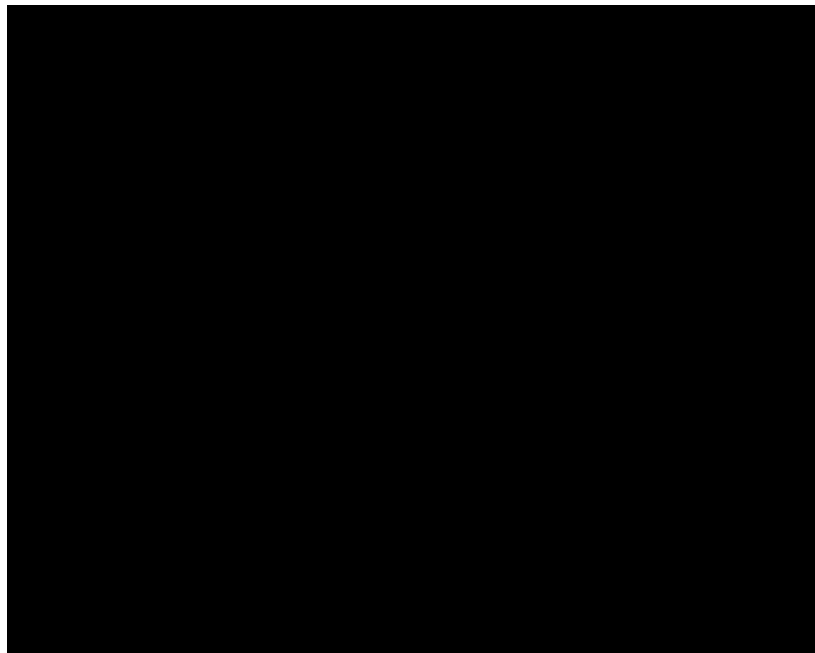
November 18, 2024

Environmental Protection Agency

Emerging Contaminants Grant – BABA Waiver Request

Clark County Water Reclamation District located at 5857 E Flamingo Rd, Las Vegas, NV 89122 is requesting a nonavailability waiver for a triple quadrupole liquid chromatographer/mass spectrometer for our Clean Water State Revolving Fund Emerging Contaminants grant.

Clark County Water Reclamation District is requesting funding to support purchasing a triple quadrupole liquid chromatographer/mass spectrometer and related equipment, training, and software to allow for the testing of emerging contaminants in our water cycle: PFAS, pharmaceuticals, personal care products and illicit drugs.



5857 East Flamingo Road • Las Vegas, Nevada 89122 • (702) 668-8888 • (800) 782-4324



The Clean Water State Revolving Fund Emerging Contaminants grant is an EPA (Environmental Protection Agency) grant that is administered by NDEP (Nevada Division of Environmental Protection). The financial assistance funding amount is for \$501,160.20.

Clark County Water Reclamation District is requesting a waiver on these products due to their nonavailability from a domestic manufacturer.

Justification:

Clark County Water Reclamation District has made a good faith effort to find domestic manufactures and products to procure a triple quadrupole liquid chromatography/mass spectrometer instrument.

Of the companies that manufacture LC/MS for PFAS testing, provided the performance measures and flexibility needs and is also compatible with wastewater testing, only two companies met all criteria. However, both are manufactured outside of the United States:

[REDACTED]

[REDACTED] was selected for our new system purchase because of its superior instrument performance. While other vendors, including [REDACTED], offer capable instruments, [REDACTED] system stood out in terms of flexibility and performance for our specific application. [REDACTED] features a tandem mass spectrometer with [REDACTED] technology in the electrospray source, which significantly enhances robustness. This feature is critical for the high-quality results we need when analyzing complex wastewater samples. Additionally, [REDACTED] ensuring superior resolution and sensitivity. [REDACTED] is also compatible within the District's existing laboratory software and instruments.

Their system is tailored support for PFAS and illicit drug testing. Their package includes a comprehensive database of known PFAS compounds, which is essential for our ongoing environmental testing. The requirement to test for PFAS is required for the grant we are requesting funding under. Their expertise in method development, particularly in PFAS and illicit drug testing, ensures that we will have the support needed to develop and implement robust analytical methods in a timely manner. This level of specialized support from [REDACTED] application engineers, who will be available for onsite assistance, is an invaluable resource that ensures we can quickly deploy the system for our needs.

[REDACTED] provided a **significant cost savings** to the District. This discount made the [REDACTED] system more economically viable compared to other options we considered, ensuring cost-effectiveness to best utilize the grant award resources. While [REDACTED] also presented a

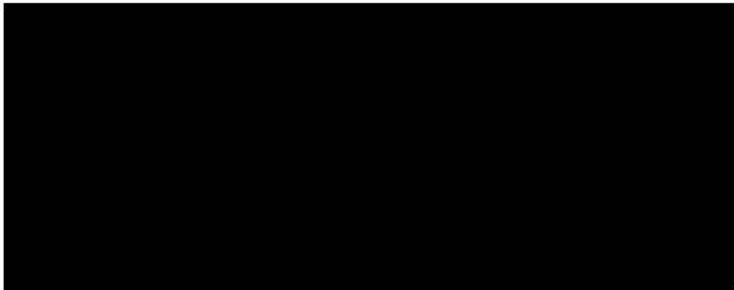
competitive pricing option, their lower-cost system did not meet the performance or flexibility requirements needed for our wastewater sample analysis.

██████ has committed to the quickest delivery and setup timeline, ensuring that we can get up and running without significant delays. This is especially important for meeting our project deadlines and maintaining our laboratory's productivity.

For reference. I have attached an email from [REDACTED] that states the product is manufactured in [REDACTED]. I have also attached a page from [REDACTED] website that state the product is manufactured in [REDACTED]

Sincerely,

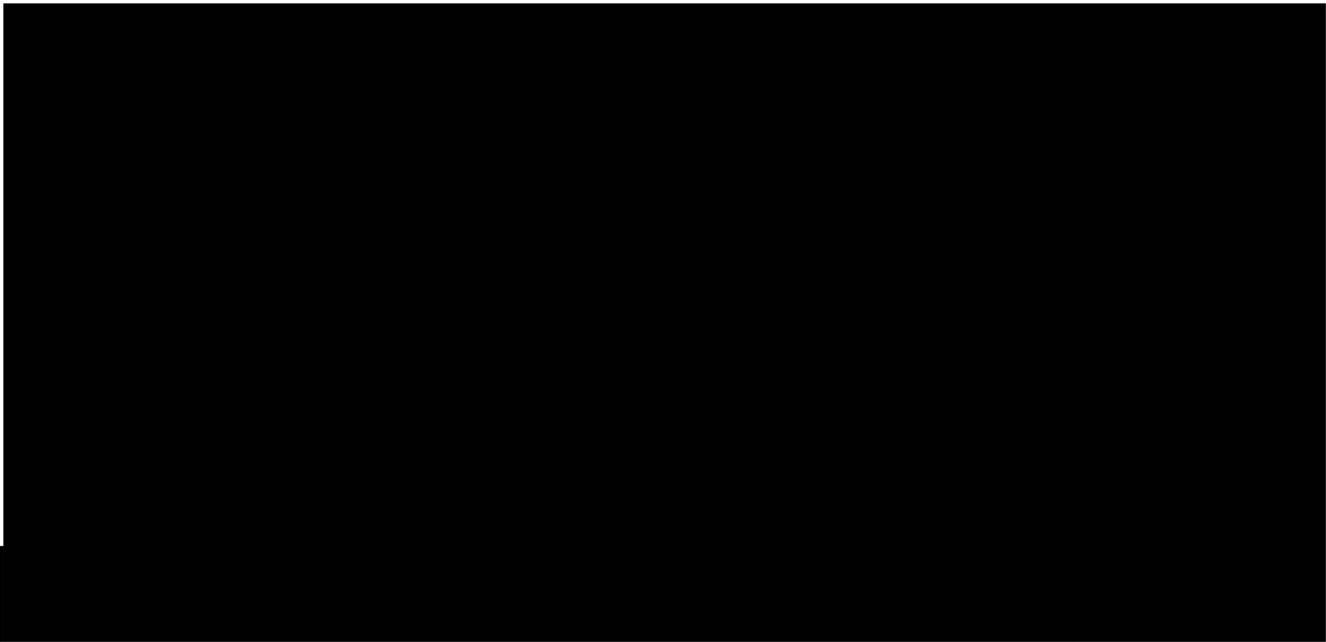
Angeline Szymanski
Clark County Water Reclamation District, Grant Administrator



Caution: This email originated from outside EPA, please exercise additional caution when deciding whether to open attachments or click on provided links.

[Redacted],

Below are the performance-based specifications I received from our laboratory team. Please let me know if you have any additional questions. Thank you!



Collision Cell Clearance Time	<1 ms		
Dimensions (WxDxH)	91.5 cm x 77.3 cm x 47.5 cm		
Ion Source	ESI	AJS	APCI
	MultiMode (ESI+APCI)	NanoESI	
MRM Speed	700 MRM transitions/s		
Mass Range	m/z 5-3000		
Minimum MRM Dwell Time	0.5 ms		
Polarity Switch Speed	<25 ms		
Quad Resolution (FWHM)	Unit = 0.7 Da	Wide = 1.2 Da	Widest = 2.5 Da
	Narrow – 0.4 Da (m/z 5 to 1,500)		
Scan Speed	18,700 Da/s		