



## OFFICE OF GROUND WATER AND DRINKING WATER

WASHINGTON, D.C. 20460

### **DECISION MEMORANDUM**

**SUBJECT:** Project-Specific Nonavailability Waiver of Build America, Buy America Act Requirements to the Hawaii Department of Water Supply in Hawaii for Vertical Turbine Well Pump Assemblies for the Kahaluu Shaft Phased Pump Repairs Project

**FROM:** Jennifer L. McLain, Director

#### **Decision**

The U.S. Environmental Protection Agency is hereby issuing a project waiver pursuant to the domestic preference set forth in section 70914 of the Build America, Buy America (BABA) Act included in the Infrastructure Investment and Jobs Act (Pub. L. No. 117-58), under the authority of section 70914(b), to the Hawaii Department of Water Supply (Applicant) for the purchase of vertical turbine well pump assemblies. This waiver permits the use of vertical turbine well pump assemblies because no known manufacturers produce a domestic product that meet the technical specifications of the project. This waiver is applicable to expenditures made for the specified products, for the Kahaluu Shaft Phased Pump Repairs project funded by the Drinking Water State Revolving Fund (DWSRF), on or after the effective date of the final waiver until December 31, 2030.

This is a project-specific waiver. Any other project that wishes to use the same products 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 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 U.S. 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 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.

Waiver Description: Project-specific nonavailability waiver of the BABA manufactured products requirements to the Hawaii Department of Water Supply, for vertical turbine well pump assemblies.

Project Summary: The project, located in Kailua-Kona, HI, will consist of repairing the deep wells owned by the Applicant. One of the pumping assemblies is not functional, and several others are failing due to aged and worn parts. This portion of the project will purchase the various products that will need replacing, which includes the vertical turbine well pump assemblies.

Length of the waiver: From the effective date of the final waiver until December 31, 2030.

### Summary of Items Covered in the Waiver (including NAICS):

The following items are covered under this waiver:

#### Vertical Turbine Well Pump Assemblies

- NAICS: 333996
- PSC: 4320

### **Description of Efforts Made to Avoid the Need for a Waiver**

Both the Hawaii Department of Water Supply and the EPA made every effort to obtain domestically produced vertical turbine well pump assemblies. This is both documented in the waiver request, and in the description of the EPA's extensive research efforts listed below.

Market research concluded on December 26, 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, 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, the EPA contacted ten (10) manufacturers of vertical turbine well pump assemblies. The EPA identified these manufacturers in our attempt to find all potential domestic manufacturers of the above-mentioned products.

When contacted, one (1) manufacturer for vertical turbine well pump assemblies indicated potential to meet the specifications of the project while being BABA compliant. When contacted by the assistance recipient, the manufacturer informed the applicant that they could not meet the BABA requirements.

#### **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 OMB’s Made in America website on January 17, 2025, to satisfy the required fifteen (15) day-public comment period. The EPA sought public comment from all interested parties and encouraged potential manufacturers of the products in question to submit comments regarding anticipated timeframes for shifting to domestic manufacturing that would be compliant with BABA. The comment period for the proposed waiver closed on February 1, 2025. The EPA received no (zero) public comments, 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): Hawaii 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

Federal Financial Assistance Funding amount: \$2,300,000

Total Cost of Infrastructure Expenditures: \$2,300,000