



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 (BABA) Act Requirements for a Switchgear Package for the Water Treatment Plant Electrical Upgrades Project in Seaside Heights, New Jersey.

Introduction

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 non-availability of product(s) 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 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 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 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, the 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: Seaside Heights, NJ Project" 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 use in an infrastructure project funded through the Capitalization Grants for Drinking Water State Revolving Funds.

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 the BABA requirements to the Seaside Heights Water Treatment Plant Electrical Upgrades Project located in Seaside Heights, NJ, for a switchgear package.

Project Summary: The Borough of Seaside Heights owns and operates the water treatment plant located in Seaside Heights, New Jersey. This facility has experienced previous flooding events that have impacted the integrity of the electrical system and controls associated with the water treatment plant. The previously damaged equipment includes electrical conduit, conductors, transformers, and circuit breakers located at the facility. In addition to replacing this previously impacted equipment, the facility back-up generator will be replaced and the variable frequency drive associated with the most critical raw water well pump will be protected from future flood events. The proposed work includes raising critical equipment above the state established flood elevation. All the proposed improvements are for critical infrastructure necessary for the continued operation of the water treatment facility and all improvements meet the intended purpose of providing resiliency to protect high priority

facilities critical to health and safety. This project requires use of a switchgear package to ensure electrical resiliency to future flooding and to repair from previous damage.

Length of the waiver: From the effective date of the final waiver until the project's completion which is estimated to be November 14, 2030.

Summary of Items Covered in the Proposed Waiver (including NAICS):
Switchgear package. NAICS #335313. PSC #6110.

Description of Efforts Made to Avoid the Need for a Waiver

Both the New Jersey Department of Environmental Protection (NJDEP) and the EPA made every effort to obtain a BABA-compliant switchgear package. This is both documented in the waiver request, and in the description of the EPA's extensive research efforts listed below. The project sourced BABA compliant parts where possible for the switchgear package.

The EPA conducted market research in September 2025. During market research the EPA contacted 9 manufacturers of switchgear packages. None of the manufacturers were able to meet the project's technical specifications. One entity, who is already working with the project, responded to the market research inquiry and confirmed that they can make some of the switchgear BABA compliant. However, to meet the project's technical specifications, other parts cannot meet the 55% content test. Based on the technical evaluation conducted, the claim that BABA-compliant products that meet the project's specification are not available is supported.

Anticipated Impact if No Waiver is Issued

Due to the critical nature of the project, absent a waiver, the project could be significantly delayed while the community seeks other, non-federal funding. Construction delays could result in contractor change orders and potential to miss the construction window before the next flooding season, which would increase the risk of further flooding damage to the water treatment plant if improvements cannot be made. This could present a public health risk to the community due to service disruptions.

Description of Award

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

Recipient Name: Borough of Seaside Heights

Recipient Unique Entity Identifier: QKJKQ2TKM6S6

Federal Financial Assistance Identification Number (FAIN): NJEIFP Project No. 1526001-002

Federal Financial Assistance Listing Name: 66.468 Drinking Water State Revolving Fund

Federal Financial Assistance Listing Number: 66.468

Federal Financial Assistance Funding amount: Total federal financial assistance: \$4,068,161

Total Cost of Infrastructure Expenditures: Total project cost is estimated to be \$4,068,161

Borough of Seaside Heights

GEORGE E. TOMPKINS MUNICIPAL COMPLEX, Bldg. B
100 Grant Avenue
Seaside Heights, NJ 08751



September 02, 2025

Via H2LOans Upload and Electronic Mail [REDACTED]

NJDEP Division of Water Quality
Municipal Finance and Construction Element
[REDACTED]

401 E. State Street
Trenton, New Jersey 08625-0420

Attn.: Danielle Green, Environmental Engineer 1

Re.: Borough of Seaside Heights, County of Ocean, State of New Jersey
Water Treatment Plant Electrical Resiliency Project – Phase 1
BABA Waiver Request - Nonavailability
[REDACTED]

Dear Ms. Green:

The Borough of Seaside Heights, is submitting a Nonavailability BABA Waiver Request for the "Switchgear Package" for the Water Treatment Plant Electrical Resiliency Project – Phase 1. The "Switchgear Package" consists of thirteen (13) critical components required to make the project complete and operational. The switchgear package components requiring a "Nonavailability" BABA waiver are:

As pursuant to Memorandum M-24-02 dated October 25, 2023 regarding implementation guidance on Application of Buy America Preference in Federal Financial Assistance Programs for Infrastructure, Section VI. Issuing Buy America Waivers, paragraph 8 checklist, the following is provided as backup for your consideration:

1. Waiver Type: **Nonavailability**
2. Recipient name and Unique Entity Identifier: **Borough of Seaside Heights UEI# QKJKQ2TKM6S6**
3. Federal awarding agency organizational information: **New Jersey Department of Environmental Protection (NJDEP)**
4. Financial assistance listing name and number: **NJDEP Drinking Water State Revolving Fund: Seaside Heights - Water System Improvements – Resiliency 1526001-002**
5. Federal financial assistance program name: **NJDEP Drinking Water State Revolving Fund**
6. [REDACTED]
7. [REDACTED]
8. [REDACTED]
9. Infrastructure project description and location: **The Borough of Seaside Heights owns and operates the water treatment plant located at [REDACTED]**
[REDACTED] This facility has seen previous flooding events that have impacted the integrity of the electrical system and controls associated with the water treatment plant. The previously damaged equipment includes: electrical conduit, conductors, transformers, and circuit breakers located at the facility. In addition to addressing this previously impacted equipment, the facility back-up generator will be replaced and the variable frequency drive associated with the most critical raw water well pump will be protected from future flood events. The proposed work includes raising critical equipment above the established flood elevation. All the proposed improvements are to be completed on critical infrastructure necessary for the continued operation of the water treatment facility and all improvements meet the intended purpose of providing resiliency to protect high priority facilities critical to health and safety.
10. Description of the relevant Federal program and an estimate of dollar amount of Federal financial assistance what would be subject to the waiver and an estimate of how many infrastructure projects would be subject to the waiver: **The Federal program financing the project is the NJDEP Drinking Water State Revolving Fund (DWSRF). The funding source is the 2025 Drinking Water Affordability / Drinking Water Resiliency.** [REDACTED]
[REDACTED] There is only one infrastructure project, Water Treatment Plant Electrical Resiliency Project – Phase 1, subject to the waiver.
11. List of iron and steel items, manufactured products, and construction materials proposed to be excepted from Buy America requirements, including name, cost, countries or origin, and relevant Product and Service Code and North American Industry Classification System Code for each.
 - **Water Treatment Plant Electrical Resiliency Project's "Switchgear Package" is seeking BABA exception.** [REDACTED]
[REDACTED]

2.

- The "Switchgear Package" items were specified by Engineer and are provided herein:
 - Attachment 1 - Electrical Switchgear Specifications
- The "Switchgear Package" items were submitted by the Contractor and approved by the Engineer and are provided herein in the form of (3) submittal packages:
 - Attachment 2 - Medium Voltage [REDACTED] Transformer Approved Submittal (#1 item above)
 - Attachment 3 - Custom Switchboard Approved Submittal (#2 item above)
 - Attachment 4 - Miscellaneous Distribution Equipment Approved Submittal [REDACTED]
[REDACTED]
- [REDACTED]

A description of the efforts made by the Federal awarding agency and, in the case of a project or award specific waiver, by the recipient, in an attempt to avoid the need for a waiver.

- Attachment 5, Section A: Statement from Prime Contractor
- Attachment 5, Section B: Information from Domestic Suppliers
- Attachment 5, Section C: Documentation of efforts to find domestic sources
 - Contacts for suppliers:
 - [REDACTED]
 - [REDACTED]
- Attachment 4, Section D: Project Schedule

13. Market research, where applicable, should include relevant details, including who conducted the market research, when it was conducted, sources that were used, and the methods used to conduct the research. **The Engineer and Contractor were both unsuccessful in finding domestic sources for the Switchgear Package materials necessary to make the project workable and complete.**
14. For final waivers, any relevant comments received through the public comment period, and the agency's response to those comments. **Not applicable.**

If you require any additional information or have any questions, please do not hesitate to contact the Borough's engineer on this project, **SUBURBAN CONSULTING ENGINEERS, INC., Project Manager, Jennifer Rossano** [REDACTED] Thank you.

Very truly yours,
THE BOROUGH OF SEASIDE HEIGHTS



Christopher Vaz
Borough Administrator

JDR/

Note: Information in this waiver may have been redacted or removed due to issues of proprietary business information or incompatibility with Federal accessibility requirements. To request the information redacted, or to request the technical specifications for the product, please email: BABA-OW@epa.gov

Enclosures: Five (5) Attachments as outlined above.

cc: Michael K. McAloon, PE, Assoc. DBIA [REDACTED]
Jennifer Rossano, PE [REDACTED]
Faruk Fidan [REDACTED]

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