



OFFICE OF WASTEWATER MANAGEMENT

WASHINGTON, D.C. 20460

DECISION MEMORANDUM

SUBJECT: 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

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 Clark County Reclamation District in Nevada (Applicant) for a Triple Quadrupole Liquid Chromatographer/Mass Spectrometer (LC/MS). This waiver permits the use of this product, which is produced outside of the United States, in the Clark County Water Reclamation Emerging Contaminants Project, because no manufacturers produce BABA-compliant alternatives that meet the technical specifications of the project. The waiver is applicable to expenditures made for a Triple Quadrupole LC/MS on or after the effective date of the final waiver until project completion, estimated to be December 31, 2026.

This is a project-specific waiver. Any other projects that wish to use the same product must apply for a separate waiver. If you have any questions concerning the contents of this memorandum, please contact the Domestic Preference Team at BABA-OW@epa.gov.

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 a single BABA-compliant 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 BABA manufactured product requirements to the Applicant in Clark County, Nevada, for a triple quadrupole LC/MS for the Clark County Water Reclamation District 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 administered through the Clean Water State Revolving Fund. The grant enables the Applicant to take necessary steps to identify and address emerging contaminants. The Applicant will use the triple quadrupole LC/MS to identify emerging contaminants in their wastewater effluent including PFAS, pharmaceuticals, personal care products, and illicit drugs and is integral to the wastewater treatment process.

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

Summary of Items Covered in the 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. The Applicant proposes to procure the LC/MS produced outside the United States. No BABA-compliant alternative products meeting the technical specifications of the project were identified by the Applicant, or through the EPA's market research completed in December 2024.

Description of Efforts Made to Avoid the Need for a Waiver

The Applicant made a good faith effort to identify alternative BABA-compliant products that meet project specifications. They were unable to find other similar products that were BABA-compliant and would meet the technical specifications of the project.

The EPA also conducted market research in December 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 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.

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 November 17, 2025, 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. The comment period for the proposed waiver closed on December 2, 2025. The EPA did not receive any comments to the waiver request.

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