



OFFICE OF WASTEWATER MANAGEMENT

WASHINGTON, D.C. 20460

DECISION MEMORANDUM

SUBJECT: Project-Specific Nonavailability Waiver of Build America, Buy America Act Manufactured Product Requirements to the City of Cozad in Nebraska, for Multiparameter Monitoring Probes

FROM: Andrew Sawyers, Director

Decision

The U.S. Environmental Protection Agency (EPA) 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 City of Cozad in Nebraska (Applicant) for multiparameter monitoring probes. This waiver permits the use of this product, produced outside of the United States, in the Water Resource Recovery Facility Improvements project, because no manufacturers produce BABA-compliant alternatives that meet the technical specifications of the project. The waiver is applicable to expenditures made for multiparameter monitoring probes on or after the effective date of the final waiver until project completion, estimated to be December 31, 2027.

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 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 type 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 Applicant, for multiparameter monitoring probes for the Water Resource Recovery Facility Improvements project.

Project Summary: The Applicant plans to install monitoring probes in its municipal wastewater collection system in Cozad, Nebraska, to monitor high strength industrial discharges. These discharges have previously interfered with treatment processes, making it difficult for the Applicant to reliably meet permitted discharge limits. Installation of the probes is integral to improved operation of the treatment plant, by allowing real time monitoring of multiple water quality parameters including biochemical oxygen demand, chemical oxygen demand, and total suspended solids. The industrial flow and loading results from the initial monitoring will also be used to inform a significant improvement project at the Water Resource Recovery Facility that is currently in the design phase. The project also will include installation of a shelter, metering manhole, Parshall flume, radar level transmitter, and multiparameter probe at one location and installation of shelter, radar level transmitter and multiparameter probe at another location.

Length of the waiver: From the effective date of the final waiver until project completion, which is estimated to be December 31, 2027.

Summary of Items Covered in the Waiver (including NAICS): The Applicant is seeking a waiver for multiparameter monitoring probes (NAICS code 334516, PSC code 6695), which are BABA manufactured products. The Applicant proposes to procure multiparameter monitoring probes which are not certified, BABA-compliant products. The technical specifications for the project require probes that measure the following parameters: biochemical oxygen demand, chemical oxygen demand, total organic carbon, dissolved oxygen, pressure, pH, temperature, chloride, nitrate, coliforms, tryptophan, refined oils, ammonium, salinity, turbidity, crude oils and colored dissolved organic matter. No domestic alternative products 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 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, and communication with domestic manufacturers.

The EPA researched and contacted eight (8) manufacturers and suppliers. The manufacturers were asked whether they manufacture BABA-compliant multiparameter monitoring probes that meet the

project's specifications, and if so, what the estimated lead time would be. One (1) manufacturer initially stated that they offer BABA-compliant products meeting project specifications. Upon further review in December 2024, the Applicant determined that this manufacturer could not meet the project's technical specifications. The identified BABA-compliant probe was unable to measure biochemical oxygen demand or chemical oxygen demand as required by the project specifications.

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 was 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 21, 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 6, 2025. No (zero) public comments were received for this waiver request.

Description of Award

Recipient Name and/or Unique Entity Identifier (UEI): C7LZS7A8QKP8

Common Government Accounting Code: 068

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

Federal Financial Assistance Listing Name: Clean Water State Revolving Fund

Federal Financial Assistance Listing Number: 66.458

Federal Financial Assistance Funding Amount: \$7,500,000

Total Cost of Infrastructure Expenditures: \$7,500,000