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OFFICE OF WASTEWATER MANAGEMENT

WASHINGTON, D.C. 20460

SOLICITATION OF PUBLIC COMMENT FOR PROJECT-SPECIFIC BUILD AMERICA, BUY AMERICA PUBLIC INTEREST WAIVER PROPOSAL

SUBJECT: UNDER EVALUATION: Project-Specific Public Interest Waiver of Build America, Buy America Act Requirements to the Village of Alda in Nebraska, for its Previously Planned and Completed Lift Station Rehabilitation Project

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 the public interest for this project, which was completed in March 2024. This solicitation of public comment does not represent a final agency decision. The purpose of this proposal is to examine if the application of the BABA requirements to the project is in the public interest or whether other factors should be considered in the evaluation of a 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: Village of Alda Public Interest Waiver" 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 Act 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 EPA is soliciting comments regarding whether to issue a project waiver of the requirements of section 70914 of the BABA Act included in the Infrastructure Investment and Jobs Act (Pub. L. No. 117-58), to the Village of Alda in Nebraska (Applicant) for its Lift Station Rehabilitation Project (project) funded as directed in the 2024 Consolidated Appropriations Act.

Waiver Type: Public interest, for a previously planned and completed project. Applying the domestic content procurement preference would be inconsistent with the public interest for this project which was completed in January 2024. This was two months before the 2024 Appropriations Bill was passed in March 2024, in which funding for this project was included.

Waiver Level and Scope: Project level waiver for a single project. No other project will utilize the waiver.

Proposed Waiver Description: Project-specific public interest waiver of the BABA requirements to the Village of Alda in Nebraska (Applicant), for its previously planned and completed Lift Station Rehabilitation Project.

Project Summary: This completed project is located in the Village of Alda, Nebraska. This project included the rehabilitation of two (2) wastewater lift stations within the Village that were unable to continue providing adequate service to residents of the Village. Rehabilitation included the demolition of the existing valve vault and pumps and the installation of a new package fiberglass above-grade vault utilizing the existing wet well with the installation of submersible pumps and rails. Also included in the project were SCADA upgrades which allowed the Village to monitor lift station operation and faults. The Applicant was notified that it would receive 2024 funding appropriations after the project was already complete.

The following products were permanently incorporated into the project:

- Two (2) above grade valve vault package lift stations (NAICS: 333914, PSC: 4320) which include the enclosure, piping and valves, fittings, pumps, guide rails, electrical apparatuses, and prefabricated deck.

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

Project Timeline and Background for the Waiver: The Applicant began seeking funding for this project in 2021 and the proposed lift station improvements were identified on the 2023 Clean Water Needs Survey for the Nebraska Department of Environment and Energy. At the time that the Applicant sought federal funding for its project, construction was already underway. Before the 2024 Appropriations Bill was passed, the Applicant's lift stations started failing which led to raw sewage backing up into private residences in the community. These failures posed an imminent risk to human health and the environment, and the Applicant could not pause construction to await confirmation of federal funding and further guidance from the EPA. Because federal funding had not yet been secured, the Applicant utilized local funds for this project, but because these funds were inadequate to fully cover construction, the Applicant also secured bonds. Eventually the Applicant received notification of award from the 2024 Appropriations Bill, but the project was already complete. The disbursement of

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the award is on hold due to the application of BABA requirements to the project post-completion.

The EPA sees no evidence that the Applicant intended to circumvent the BABA requirements. The Applicant proceeded with its project in good faith to protect their community and the environment. Therefore, the EPA proposes that a public interest waiver be issued for this previously planned and complete project, because applying the domestic content procurement preference would be inconsistent with the public interest and meets the conditions of a waiver in section 70914(b)(1).

Description of Efforts Made to Avoid the Need for a Waiver

At the time of preparing, evaluating, accepting, and initiating the construction contract, the Applicant had not received confirmation of federal funding, nor any notification about the requirements and resources that go along with it. The Applicant had no knowledge of or expectation that the BABA requirements would apply to this project. Reasonable efforts to avoid a waiver were not applicable prior to commencement of the project. In many cases, BABA requirements can be easily managed and accounted for during the early planning stages of a project, but compliance can be costly and complex past the design phase for infrastructure projects and this project is complete.

Anticipated Impact if No Waiver is Issued

Without this waiver, the Applicant would face significant increased costs due to the need to demolish existing construction, reevaluate and redesign project elements, investigate domestic product availability, revise engineering drawings and bid specifications, and resubmit plans for approval, and acquire and install BABA-compliant products, where possible. In addition, the Applicant would continue to incur interest and fees for its interim financing costs, which continue to grow while disbursement of federal funding is delayed due to BABA requirements. The Applicant is paying down these bonds which has been burdensome to this community of 648 residents. This project is complete, and these additional steps would severely impact the Applicant, its budget, the community, and jeopardize the health of the public and environment. This waiver is essential to prevent such disruptions to this critical wastewater infrastructure project, ensuring the effective use of federal funds and safeguarding public health and the environment. The EPA therefore believes this request is in the public interest.

Description of Award

Recipient Name and/or Unique Entity Identifier (UEI): D4E1Z8LNDKW6

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

Agency CGAC: 068

Federal Financial Assistance Funding Amount: \$320,000

Total Cost of Infrastructure Expenditures: \$383,200

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December 15, 2025
Alda, Nebraska

United States Environmental Protection Agency
Water Division, Permits and Wetlands Branch
BABA-OW@epa.gov

Re: Village of Alda Lift Station Projects
BABA Waiver Request

To Whom It May Concern:

The Village of Alda is requesting a Build America Buy America (BABA) Waiver for the Village's Lift Station Rehabilitation project. The Village was listed on the 2023 Appropriations Bill, which was passed on March 8th, 2024. Alda's situation is unique as the project was completed prior to the funding guidelines being available.

A brief summary of the project

This project included the rehabilitation of 2 (two) wastewater lift stations within the Village of Alda that were aging and unable to provide adequate service to the Village and its citizens. Rehabilitation included the demolition of the existing valve vault and pumps and the installation of a new package fiberglass above-grade vault utilizing the existing wet well with the installation of submersible pumps and rails. Also included in the project were SCADA upgrades so that the Village could monitor lift station operation and faults.

A description and explanation of the need for the waiver for the product(s) in question

The proposed Lift Station improvements have been identified on the Village's 2023 Clean Water Needs Survey for the Nebraska Department of Environment and Energy. Before the 2023 Appropriations Bill was passed, the Lift Stations started failing which led to backs up in residences, which the Village is still working on through the Legal process. These failures posed an imminent risk to human and environmental health, and therefore could not wait until the appropriations bill was passed and further guidance was issued from the Environmental Protection Agency. The equipment in the lift stations was outdated and replacement parts were obsolete.

A brief summary of the due diligence conducted in search of domestic alternatives (which could include correspondence between assistance recipient and supplier/distributors)

Due to the emergency nature of the project, the bidding documents including plans and specifications were completed and submitted to the Nebraska Department of Environment and Energy (NDEE) before having funding guidelines for the EPA Funding. Package lift station manufacturers have limited availability to domestic products as pumps are primarily of European origin and electronic equipment is primarily sourced from non-domestic manufacturing. These package lift stations are assembled by a distributor in the United States.

The quantity and materials of the product(s) in question

The lift station projects combined required approximately 70 L.F. of 4” force main piping as well (2) above grade valve vault package lift stations including enclosure, pumps, guide rails, electrical apparatuses, and prefabricated decks.

Attached are the product submittals for each lift station project.

All engineering specifications and project design considerations relevant to the product(s) in question

Attached are the complete specifications and drawings for the lift station projects, Nebraska Department of Environment and Energy construction permits as well as the “as-recorded” drawings.

The approximate unit cost of items (both foreign and domestic) in addition to an estimated cost of the materials and overall project

Wildwood Drive lift station construction total [REDACTED]

Myrtle Street lift station construction total [REDACTED]

(It is estimated that 60% of the total is material, or [REDACTED] in material costs for both lift stations)

Attached are the Certificates of Substantial Completion for the Wildwood Drive Lift Station and the Myrtle Street Lift Station.

The date any products will be needed on-site in order to avoid significant project schedule disruptions.

Both lift station projects moved forward due to failing equipment and sanitary sewer overflow events. The Wildwood lift station has had a history of several failures and has caused back-ups in residents. The Myrtle Street lift station has had equipment failure and replacement parts that are no longer manufactured. Projects were bid on an expedited basis, with the biggest delay being from the equipment manufacturer for the new above-grade valve vault package lift stations.

Any other pertinent information relevant to EPA’s consideration of the waiver (e.g., if relevant for SRF projects: whether the project is designated as an equivalency project, the date the plans and specifications were submitted to the state, the date of construction initiation, expected date of project completion, any special considerations such as local zoning and building ordinances, seismic requirements, or noise or odor control requirements)

Here is a brief timeline of the Village of Alda’s Lift Station Projects:

- February 2023 Wildwood lift station project documents submitted to Nebraska Department of Environment & Energy (NDEE)
- March 2023 Village submitted the Appropriations Request
- June 2023 Myrtle lift station project documents submitted to NDEE
- September 2023 Wildwood lift station construction was initiated
- December 2023 Wildwood lift station completed

February 2024

Myrtle lift station construction was initiated

March 2024

Myrtle lift station completed

The Village of Alda received notification that the Appropriations Act was passed.

April 2024

Village received information from EPA Region 7 on requirements for Appropriations Act Funding after both lift station projects were completed

Sincerely,

A handwritten signature in black ink, appearing to read "Jerry Bond". The signature is fluid and cursive, with a large initial "J" and "B".

Jerry Bond, Chairman
Village of Alda

JB/mc