



OFFICE OF GROUND WATER AND DRINKING WATER

WASHINGTON, D.C. 20460

DECISION MEMORANDUM

SUBJECT: Availability-Based Project Waiver of Build America, Buy America Act Requirements for Medium Voltage Motor Control Center for Puerto Rico Aqueduct and Sewer Authority Improvements to Cerro Márquez Pump Station and Water Storage Tanks Project
Waiver Number 02-DWB-0011

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 Puerto Rico Aqueduct and Sewer Authority (PRASA) (Applicant) for the purchase of one medium voltage motor control center. This waiver permits the use of a medium voltage motor control center because no known domestic manufacturers produce a product that meet the technical specifications of the project. This waiver is applicable to expenditures made for the specified product for the Improvements to Cerro Márquez Pump Station and Water Storage Tanks Project funded by the Drinking Water State Revolving Fund (DWSRF), on or after the effective date of the final waiver until May 5, 2028.

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 one product for a single project. No other project will utilize the waiver.

Waiver Description: Project-specific nonavailability waiver of BABA manufactured products requirements or construction materials requirements where applicable to the Puerto Rico Aqueduct and Sewer Authority for one (1) manufactured product.

Project Summary: The Cerro Márquez Pump Station and Water Storage Tanks Improvements project in Arecibo, Puerto Rico includes replacing pumps, pipes, valves and appurtenances; performing structural improvements to the pump station and tanks; installation of electrical energy backup system; and replacing instrumentation and controls.

The project needs a medium voltage motor control center. This product is critical for the function of the pump station. Without this equipment the pump station cannot operate effectively, and approximately 26,000 families in the municipality of Arecibo could be impacted by interruption to the potable water service.

Length of the waiver: From the effective date of the final waiver until projection completion, which is estimated to be May 2028.

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

Medium Voltage Motor Control Center

- NAICS: 335314
- PSC: 6110

Description of Efforts Made to Avoid the Need for a Waiver

Both PRASA and the EPA made every effort to obtain a BABA-compliant manufactured product for this project. This is both documented in the waiver request, and in the description of the EPA's and Puerto Rico's extensive research efforts listed below.

Prior to submission of the waiver request, PRASA conducted their own market research. They contacted four (4) individual potential BABA-compliant manufacturers for the product which was requested to be waived. When a domestic product which could meet the technical

specifications for the project could not be identified, the waiver request was submitted, initiating EPA market research.

The EPA conducted initial market research in April 2025 and no BABA-compliant products were identified. 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 and suppliers of motor control centers and four (4) of them responded. No BABA-compliant options for the product were found. Based on the technical evaluation conducted, the claim that BABA-compliant products that meet the project's specification are not available domestically is supported.

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 November 20, 2025, to satisfy the required fifteen (15) day public comment period. The comment period for the waiver closed on December 5, 2025. The EPA received no public comments and therefore no changes were made between this waiver decision memorandum and the version that was posted for public comment.

Description of Award

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

Recipient Name: Puerto Rico Aqueduct and Sewer Authority

Recipient Unique Entity Identifier: HTKNUN6ZFH5

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

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

Federal Financial Assistance Listing Number: 66.468

Federal Financial Assistance Funding amount: \$6,200,000

Total Cost of Infrastructure Expenditures: \$10,280,500