



## OFFICE OF GROUND WATER AND DRINKING WATER

WASHINGTON, D.C. 20460

### DECISION MEMORANDUM

**SUBJECT:** Project-Specific Nonavailability Waiver of Build America, Buy America (BABA) Act Requirements to the Borough of Seaside Heights, New Jersey for a Switchgear Package for the Water Treatment Plant Electrical Upgrades Project

**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 Borough of Seaside Heights (Applicant) for the purchase of a submersible pump and motor. This waiver permits the use of a switchgear package because no known domestic manufacturers produce BABA compliant products that meet the technical specifications of the project. This waiver is applicable to expenditures made for the specified products, for the Seaside Heights Water Treatment Plant Electrical upgrades project funded by the Drinking Water State Revolving Fund (DWSRF), on or after the effective date of the final waiver until December 31, 2030.

This is a project-specific waiver. No other project will utilize the 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 a single project. No other project will utilize the waiver.

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 December 31, 2030.

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

The following items are covered under this waiver:

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 nine (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.

### **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 January 14, 2026, to satisfy the required fifteen (15) day-public comment period. The EPA sought public comment from all interested parties and encouraged potential manufacturers of the products in question to submit comments regarding anticipated timeframes for shifting to domestic manufacturing that would be compliant with BABA. The comment period for the waiver closed on January 29, 2026. The EPA received no (zero) public comments, and therefore no substantive changes were made between this waiver and the version that was posted for public comment.

### **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