



**American Water Works
Association**

Dedicated to the World's Most Important Resource®

June 29, 2022

The Honorable Michael S. Regan
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Ave. NW
Washington, D.C. 20460

Re: Proposed Waiver of Build America, Buy America Act requirements (P.L. 117-58) for State Revolving Fund (SRF) Projects with Submitted Engineering Plans and Specifications

Dear Administrator Regan,

The American Water Works Association (AWWA) supports the thrust of the proposal by the U.S. Environmental Protection Agency (EPA) to issue a waiver from Build America, Buy America (BABA) requirements for SRF-supported projects for which engineering plans and specifications were submitted before May 14. However, we strongly urge EPA to modify this proposal to make it uniform with the waiver for WIFIA-supported projects that EPA proposed this spring. As you know, that waiver would apply to water construction projects for which project designs were initiated before that same May 14 deadline.

In addition, AWWA urges EPA to extend this waiver to a point in time six months after the agency issues its own guidance for compliance with BABA requirements.

Finance concerns

WIFIA is permitted by statute to finance up to 49 percent of a project's costs. The remaining costs may be financed with a variety of instruments, and the drinking water and wastewater SRF programs are key among these. Both programs have been operating under the same American Iron and Steel requirements for a number of years already. However, having two different sets of BABA requirements within the same project would create needless confusion and complications within a project. Project managers would be faced with figuring out which set of requirements applied to different aspects of a given project or financing package.

We already hear from utility managers that the array of requirements for applying for federal assistance is a disincentive to potential applicants. Driving utilities away from these programs would ironically result in more projects being funded with financial instruments that cost more to the utilities - and ultimately ratepayers - but do not have the environmental, wage and domestic purchasing goals of federal programs.

Product concerns

The extension of domestic purchase requirements to manufactured products and construction materials in BABA requires a substantial new learning curve for the water sector. Water utilities, contractors, suppliers and manufacturers need time to ascertain what products and materials used in the sector are available domestically, their comparative costs and what modifications upcoming projects may need. The manufacturing sector needs time to gear up production for products not available domestically and to figure out what components in multi-component products must be modified to comply with the new law, and how to do that.

Therefore, we are asking that this public-interest waiver be extended for six months after EPA issues its own BABA compliance guidance.

For the reasons described above, AWWA urges a modification of EPA's proposed waiver of BABA requirements for SRF-supported projects. The waiver should match the one proposed for WIFIA-supported projects and should be extended for six months after issuance of EPA's BABA guidance.

Sincerely,

A handwritten signature in black ink, appearing to read "G. Tracy Mehan, III". The signature is written in a cursive style with a large, stylized initial "G".

G. Tracy Mehan, III
Executive Director for Government Affairs
American Water Works Association
tmehan@awwa.org

Cc: Andrew Sawyers, EPA Office of Water
Kiri Anderer, EPA Office of Water