

Interpretation of Build America, Buy America (BABA) General Applicability Public Interest Waiver for WaterSMART Programs Impacted by Drought

Applicability: WaterSMART amendments and awards under assistance listing numbers 15.504, 15.507, 15.514

Waiver Section A

*Previously Planned Projects: DOI is waiving the Buy America preference requirements for iron, steel, manufactured products and construction materials **for** any contracts entered into prior to May 14, 2023, that resulted from solicitations published before May 14, 2022, the implementation date of the Build America, Buy America Act. This waiver is applicable **to** awards or amendments **obligated on or after the effective date of the final waiver and prior to its expiration two (2) years from the date of issue**. Any recipient covered by this waiver is under a continuing affirmative duty to provide any future contract modifications to DOI for review and approval consistent with the requirements of 2 CFR § 200.308(h). This waiver from the Buy America preference does not apply to contract modifications that change the scope or the objectives of the project, including additional or new construction, remodeling, or broadband infrastructure development.*

AND

*For **awards and amendments** that otherwise meet these criteria but were **obligated prior to the effective date** of the final waiver, the waiver will only apply to **eligible expenditures on or after the effective date of the final waivers**.*

Effective dates: Awards or amendments signed *between* February 15, 2024-February 14, 2026, with some coverage for awards or amendments signed *before* February 15, 2024.

Waiver Qualifiers:

The award or amendment must be signed by a Grant Officer between February 15, 2024-February 14, 2026. Awards or amendments signed by a Grant Officer before February 15, 2024 may also take advantage of this waiver, but only for purchases under contracts from February 15, 2024 forwards. Consult the Notice of Award for the grant agreement or amendment to verify these dates.

Waiver coverage is limited to purchases under an eligible contract. Eligible contracts are those that were solicited prior to May 14, 2022 and let prior to May 14, 2023. This does not provide waiver coverage to an entire award or amendment.

Waiver coverage is limited to the portion of the contract funded via the award or amendment that was signed during the waiver effective dates. Consult the grant agreement or amendment to review the approved scope, period of performance, and funding amounts. The waiver coverage is for the length of the period of performance and applies to the authorized scope and funding amounts.

Modifications to add or expand scope do not have waiver coverage.

Awards and amendments signed by a Grant Officer after February 14, 2026 will not have waiver coverage.

Waiver Section B

DOI is waiving the Buy America preference requirements **for** manufactured products **for** awards or amendments obligated on or after the effective date of the waiver. This waiver is applicable to **awards or amendments obligated** on or after the effective date of the final waiver and prior to its expiration one (1) year from the date of issue. Obligations covered by this waiver will be expected to comply with Buy America preference's Iron, Steel, and construction materials requirements.

AND

For **awards and amendments** that otherwise meet these criteria but were **obligated prior to the effective date** of the final waiver, the waiver will only apply to **eligible expenditures on or after the effective date of the final waivers**.

Effective dates: Awards or amendments signed *between* February 15, 2024-February 14, 2025, with some coverage for awards or amendments signed *before* February 15, 2024.

Waiver Qualifiers:

The award or amendment must be signed by a Grant Officer between February 15, 2024-February 14, 2025. Awards or amendments signed by a Grant Officer before February 15, 2024 may also take advantage of this waiver, but only for purchases of manufactured products from February 15, 2024 forwards. Consult the Notice of Award for the grant agreement or amendment to verify these dates.

Waiver Section B provides coverage only for manufactured products. Purchases of iron, steel, and construction materials must be domestically sourced. [2 CFR 184.3](#) provides a definition of each of these material types.

Consult the grant agreement or amendment to review the approved scope, period of performance, and funding amounts. The waiver coverage is for the length of the period of performance and applies to the authorized scope and funding amounts.

Awards and amendments signed by a Grant Officer after February 14, 2025 will not have waiver coverage.

Helpful Tips:

Keep documentation of the waiver, your interpretation, and its applicability in your files as part of your official record.

A single amendment or award may be eligible for coverage under Waiver Section A and Waiver Section B simultaneously. Examine both.

This general applicability waiver is temporary, intended to serve only as a transitional measure to achieving full BABA compliance. BABA compliance at waiver expiration is expected.

Consult your Grant Officer if you have additional questions.
