

Department of Energy

Build America, Buy America Act

Proposed Project-Specific Non-availability Waiver For Solar Panels and Battery Storage

BABA WAV 2026-22

Proposed Waiver Summary: The United States Department of Energy (DOE) Office of State and Community Energy Programs (SCEP) is proposing a project nonavailability waiver of the manufactured products domestic preference requirements of section 70914 of the Build America, Buy America Act (BABA) included in the Infrastructure Investment and Jobs Act (Pub. L. No. 117-58) as applied to a Federally-supported project carried out by Lake Mills Area School District. This proposed limited nonavailability waiver would allow Lake Mills to purchase non-compliant Solar Paneling, inverters, and battery storage.

Duration of the waiver: Project Specific for the entire period of performance of the grant in which the infrastructure projects will occur. The period of performance of this award (DE-EE0010109) is 04/1/2023 through 1/31/2028.

Applicability: The waiver will apply to eligible expenditures incurred by the recipient on or after the effective date of the final waiver for the period that the waiver is active.

Recipient: Lake Mills Area School District (Sub-recipient to the State of WI)

Total estimated project cost related to infrastructure: \$1,389,663

Waiver Type: Nonavailability waiver of the BABA manufactured product requirements for the products listed below.

Waiver Level: Project-specific waiver for one award.

Funding Mechanics: This project is funded via a subaward. The prime award from which this subaward was made was to the State of Wisconsin. The prime award itself is a formula grant issued to the State through the State Energy Program. The State Energy Program makes annual formula grants to 56 States and territories who use the funding to implement various energy efficiency and strategic energy objectives in their home state, often in the form of subgrants to entities within the State. In doing so, the State is effectively acting as a pass-through entity for any subgrantees to which it makes subawards. The source of funding for this award is the

Infrastructure, Investment, and Jobs Act (P.L. 117-58)—specifically, section 40109 of that Act, which provided additional funding to the State Energy Program (on top of its regularly appropriated annual funding) to be distributed by the States using the same formula and bound by the same rules as the standard annual funding.

Description of Covered Items: This waiver seeks an exception to Buy America requirements for the following items:

- a. Name of Product: Crossroads 450-watt bifacial Solar Panel
NAICS: 334413
PSC: 6117
Additional information:
 - Maximum power: 450W
 - 5 Busbar Cells
 - Maximum system voltage 1500Vdc
 - Operating temperature range: -40 to 185 (°F)
- b. Name of Product: SMA Cube 33kW Inverters
NAICS: 335312
PSC: 6130
Additional information:
 - Standard-compliant grid and PV system protection in accordance with VDE-AR-N-4105
 - No external tie switch needed
 - Arc-fault circuit interrupter and I-V curve diagnoses
 - Free-standing string inverter
- c. Name of Product: 60kW Inverters
NAICS: 335312
PSC: 6130
Additional information:
 - 277/480V 3-phase output
 - Supports 40kWh to 9.6 MWh
 - Expandable from 60kW up to 600kW
 - 20ms transfer time with 200A grid relay
- d. Name of Product: 240kWh battery system
NAICS: 335911
PSC: 6140
Additional information:
 - Lithium-Iron-Phosphate (LiFePO₄) cell chemistry
 - 23x23x86 inches
 - System operating voltage range 588V-672V

- 61.44kWh cabinet capacity

Justification: Solar module manufacturers with plants in the US stated that they would not have UL listed and certified solar modules until late 2026 and others would not provide a date that materials would be available. Both the contracted solar installer (WES Engineering) and the solar/grant consultant on the project who is associated with an organization that procures solar panels (Couillard Solar Foundation), called, emailed and visited manufacturers and vendors for several months (April 2025-July 2025) regarding their availability of BABA compliant modules. We never found or spoke to a vendor that either had BABA compliant modules or had compliant modules available for installation in 2025.

The U.S. Department of Energy's ("DOE") Build America Buy America waiver 2025-08¹, addressed the limitation of BABA-compliant solar modules, acknowledging that materials are not produced in the US in sufficient and reasonably available quantities nor quality at this time. The DOE conducted market research to determine availability of BABA compliant solar modules which included subject matter expert analysis of domestic solar production based on announcements and non-public manufacturing plans disclosed by manufacturers. Based on this market research, the DOE finds that BABA-compliant solar modules are not produced in the United States in sufficient and reasonably available quantities for use in DOE-assisted solar projects and will not become available in sufficient and reasonably available quantities until December 2025 or later.

Similarly, Inverter manufacturers with plants in the US stated that they would not have UL listed and certified inverters until late 2026 or later and others would not provide a date that materials would be available. The contracted solar installer (WES Engineering) called, emailed and visited manufacturers and vendors for several months (June 2025-Sept 2025) regarding their availability of BABA compliant inverters. No vendors had BABA compliant inverters that met our technical specifications.

The contracted solar installer (WES Engineering) called, emailed and visited manufacturers and vendors for several months (June 2025-Sept 2025) regarding their availability of BABA compliant BESS. No vendors had BABA compliant battery storage systems that met our technical specifications.

Impact Absent the waiver: There are no reasonable modifications that could be made to this project, absent the waiver; therefore, a failure to secure the waiver would undercut the success of the project or otherwise require Lake Mills to forego Federal support.

¹ <https://www.energy.gov/sites/default/files/2024-12/BABA%20WAV%202025-08%20FY24%20Omnibus%20Nonavailability%20Solar%20Module%20Waiver%20-%20FINAL.pdf>

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 nonavailability waiver. DOE’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.

Solicitation for Comments: DOE is seeking public and industry comments from all interested parties and encouraging current manufacturers of the subject products to submit comments regarding potential availability. Comments should be submitted to Agency Official Adam DeDent at adam.dedent@doe.gov. Please include “Comments for BABA waiver” in the subject line and include the posted waiver number, if possible.