

Department of Energy
Build America, Buy America Act
Proposed Project-Specific Non-availability Waiver
For Various Components

Proposed Waiver Summary: The United States Department of Energy (DOE) Office of Electricity is issuing a project specific 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 one federal financial assistance award to the Kansas Corporation Commission. This proposed limited nonavailability waiver allows the sub-recipient stated below to purchase the non-compliant electrical components needed in order to complete their approved grid resilience project.

Duration of the Waiver: The effective date of this waiver is from date of issue through the project performance period (until December 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: Kansas Corporation Commission (CS8UEBSHP7M6)

Sub-Recipient: Ark Valley Electric Cooperative Association, Inc. (PTA7TMU62MK6)

Total estimated project cost related to infrastructure: \$248,615

Waiver Type: Non-availability waiver of the BABA manufactured products and iron/steel requirement for the products listed below.

Waiver Level: Project-specific waiver for one sub-award.

Funding Mechanics: Funding for the infrastructure project is made available through the Funding Opportunity Announcement Infrastructure Investment and Jobs Act (IIJA) - Preventing Outages and Enhancing the Resilience of the Electric Grid Formula Grants to States and Indian Tribes (DE-FOA-0002736). The locations of this project are Reno County, KS and Kingman County, KS.

Description of Covered Items: Ark Valley Electric Cooperative Association, Inc. worked with several companies to obtain quotes and sourcing information for the components needed to complete this project. The pertinent information is as follows:

- Crossarm 8' DE Manufactured
- Insulator 14.4 kV Post Type C neck
- Insulator (Epoxilator) 25 kV

- Pole-top Bracket 25 kV
- Switch Recl/Regul Byp 25 kV Pole Mount
- Extension Link 3' Insulated
- Line-post Pole-top Bracket Stud
- Line-post x-arm Stud 5/8"
- Clamp DE Pistol Grip #2,1/0 (6-3/0 ACSR)
- Foam Back-Fill (Large) 6.5 Cu Ft
- Other associated minor components.

Description of Market Research and Justification: Ark Valley Electric Cooperative conducted more than 12 months of research prior to waiver request submission, ending in July 2025, to identify BABA complaint components. They worked with 6 different suppliers and manufacturers and collaborated with other Electric Cooperatives who completed their own independent BABA research. After initial research, Ark Valley identified BABA compliant manufactured products and iron/steel products for approximately 70% of supplies and equipment costs. Further research pushed its overall BABA compliance percentage to 87.2% of all supplies and equipment. Despite Ark Valley making a good faith effort to comply with the BABA, and a more than 12-month search, it does not believe it will identify additional products that will comply with the manufactured products and iron/steel materials domestic preference requirements.

NETL completed market research between July 2025 and February 2026, which focused on the 10 most costly items listed in the request made by the recipient. While research focused on these 10 items, this waiver will cover all items on the project. NETL's market research summarized: Leveraging prior research conducted by Leveraging prior research conducted by DOE's Office of Electricity (formerly known as Grid Deployment Office (GDO)), staff contacted multiple U.S. pole line hardware manufacturers to identify potential BABA compliant alternatives. The responses indicate that fully BABA-compliant alternatives are limited or unavailable for several of the requested items, particularly specialized products such as certain recloser and bypass switch assemblies and some pole-line hardware.

Impact Absent the waiver: If no waiver is issued, Ark Valley will not be able to complete the project. The 40101(d) funds are crucial to these projects, and without funding, Ark Valley will not be able to complete this critical system resilience project. Many of the components Ark Valley is seeking waivers for are minor components like bolts, nuts, insulators, and clamps. However, they are critical components to the pole assemblies, and Ark Valley cannot rebuild the infrastructure without these necessary components.

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 comments for all interested parties, including industry members and current manufacturers of the covered miscellaneous product items listed above, regarding the potential availability of project-compliant products from domestic manufacturers. The proposed waiver is available for public comment for fifteen (15) calendar days. **Comments are due no later than Month Day, Year,** and must be submitted by email to the DOE Contracting Officer at **BABAWaiverComment@netl.doe.gov**. Please write "BABA WAV 2025-## - Kansas – Ark Valley Electric Cooperative Association, Inc." in the subject line of the email.