

Waiver Number: 2025-11

Issued: March, 2025

Expires: December 31, 2028

Department of Energy

Build America, Buy America Act

Proposed Project-Specific Non-availability Partial Waiver

For Battery Energy Storage System (BESS) and Associated Microgrid Components

Proposed Waiver Summary: The United States Department of Energy (DOE) Grid Deployment Office is issuing a project specific nonavailability partial 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 Colorado Energy Office. This proposed limited nonavailability waiver allows the sub-recipient stated below to purchase non-compliant Distribution System Battery Energy Storage Systems (BESS) and associated components.

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: Colorado Energy Office (JLVGQ4E7RD53)

Sub-Recipient: City of Westminster (T9HYKBEW4B57)

Total estimated project cost related to infrastructure: \$1,088,500

Estimated total cost of the products being waived: \$309,100

Waiver Type: Non-availability partial waiver of the BABA domestic content standard of the manufactured products 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 both the 2022 and 2023 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 location of the project is the city of Westminster, Colorado.

Description of Covered Items: The City of Westminster worked with several companies to attain quotes and sourcing information for the desired Battery Energy Storage System (BESS) and transformer for this project. The pertinent information is the following:

Lithium-Ion BESS:

- Narada NESP Series LFP batteries: 538 kWh rated DC energy @ BoL; 250 kW AC rated inverter power output.
- Battery management system; Battery controller (PSC 6140 and NAICS 335911/35912).

Description of Market Research and Justification: Market research and industry engagement conducted by the recipient revealed a shortage of Build America, Buy America Act (BABA) compliant Battery Energy Storage System (BESS) manufacturers that produce the battery size, type, and voltage requirements needed for the respective project. Similar research conducted by NETL staff, corroborates these findings confirming the absence of BABA-compliant BESS manufacturers. In sum, the North American Battery Energy Storage System supply chain encompasses a diverse array of components, including battery cells, modules, electronic components, and enclosures. However, BABA-compliant sourcing for all these elements is challenging. Notably, domestic production of Lithium Iron Phosphate (LFP) battery cells is scarce in North American manufacturing space. It is noted that similar lithium-iron battery energy storage systems were waived in DOE’s WAIVER NUMBER: 2025-01, issued on December 17, 2024, underscoring this scarcity by granting a nonavailability waiver for BABA-compliant BESSs¹. 2025-01 aligns with and reinforces the recipient's findings regarding the current limitations in domestic BESS manufacturing capabilities.

Impact Absent the waiver: Absent this waiver, this project would not be able to be completed. Without this waiver, the recipient and sub-recipient would be unable to implement planned reliability and resilience improvements, including providing BESS purchase and installation.

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 manufactures of the covered BESS 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 March 18, 2026**, and must be submitted by email to the DOE Contracting Officer at **BABAWaiverComment@netl.doe.gov**. Please write “BABA WAV 2025-### - Colorado – City of Westminster” in the subject line of the email.

¹ WAIVER NUMBER: 2025-01: <https://www.energy.gov/sites/default/files/2024-12/BABA%20WAV%202025-01%20Nonavailability%20Combined%20BESS%20Waiver%20-4%20projects%20%28approved%29.pdf>