

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 domestically assembled non-BABA 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 September 2026).

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: Pueblo Community Health Center (FTGJNHSEHCA3)

Total estimated project cost related to infrastructure: \$905,450

Estimated total cost of the products being waived: \$855,450

Waiver Type: Non-availability partial waiver of the BABA 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 within health centers in Pueblo, Colorado.

Description of Covered Items: There are 5 batteries included in this waiver. Country of Origin: Components will be sourced from several countries and assembled in the United States. All batteries are LFP Lithium-ion. Sizes and installation locations are as follows:

- 1301 E 7th - 134 kW / 320 kWh
- 300 Colorado Ave - 300 kW / 744 kWh
- 300 Avondale - 32 kW / 57 kWh

- 110 E Routt - 120 kW / 246 kWh
- 2030 Lake Ave - 45 kW / 115 kWh

All batteries are LFP Lithium-ion (PSC 6140 and NAICS 335911).

Description of Market Research and Justification: The project developer has actively engaged with multiple leading battery and energy storage manufacturers and distributors between May 2025 and August 2025 to assess the availability of BABA-compliant systems. Manufacturers that have advertised progress toward compliance were prioritized for outreach. Each of the contacted entities has confirmed that its battery systems do not currently meet BABA standards, and none were able to provide a definitive timeline for achieving compliance. Pueblo Community Health Center, Inc. is seeking to install lithium-ion battery-based energy storage systems (ESS) at several of its facilities in Pueblo, Colorado. These systems are critical for enhancing the resilience of the health center’s operations, lowering energy costs, and supporting integration of renewable generation.

DOE’s review of the marketplace in August 2025 shows that while U.S. energy storage manufacturing is expanding rapidly, the nation’s production capacity and access to domestically sourced critical minerals remain insufficient to manufacture a fully BABA-compliant stationary energy storage system. In other words, even with ongoing investment, the complete supply chain — from mineral extraction to battery cell manufacturing — has not yet been established at a scale that meets demand. While the U.S. has seen extraordinary announcements of new battery factories and supply chain investments over the past few years, most of this capacity is directed toward the rapidly growing electric vehicle (EV) market, which commands priority for cell production.

The requested batteries controllers are essential for achieving resilience at these health centers. Reliable backup power is critical to maintaining operations during grid outages. Currently, no BABA-compliant batteries are available on the market. Both components rely on non-domestic components due to technology sourcing and manufacturing constraints, underscoring the need for a waiver to ensure the availability of reliable equipment.

Impact Absent the waiver: If this waiver is not issued, the project will not be able to proceed, leaving Pueblo’s community health centers without the resilient energy solutions needed to withstand power outages. Without these battery storage systems, the clinics will remain vulnerable to frequent outages, which can lead to the spoilage of vaccines and medications that require constant refrigeration, putting patient health at risk. Additionally, power interruptions will delay patient care, limit emergency response capabilities, and impact critical medical services. The local population, especially vulnerable groups who rely heavily on these facilities, would face heightened risks due to disruptions in access to essential healthcare during outages. In turn, the inability to maintain reliable healthcare access could result in severe, long-term consequences for community health and safety.

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 February 26, 2026**, and must be submitted by email to the DOE Contracting Officer at **BABAWaiverComment@netl.doe.gov**. Please write “BABA WAV 2025-## - Colorado Pueblo CHC” in the subject line of the email.