Waiver Number: 2026-07

Department of Energy

Build America, Buy America Act

Proposed Project-Specific Non-availability 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 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 Indiana Office of Energy Development. This proposed limited nonavailability waiver allows the recipient 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 May 2027).

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: Indiana Office of Energy Development (GU6MA18T2Q83)

Sub-Recipient: Johnson County Rural Electric Membership Corporation (Y35BJUNJ54W6)

Total estimated project cost related to infrastructure: $ 7,574,633

Estimated total cost of the products being waived: $4,931,128

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

Waiver Level: Project-specific wavier 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 2585 S Old US Highway 31, Franklin, IN 46131.

Description of Covered Items: UL9540A certified Battery Energy Storage System (BESS). BESS includes one (1) 20 ft. skid with enclosed 3.5 MW bi-directional power electronics and step up MV transformer; Four (4) 20 ft. enclosures each with 3.72 MWh DC-rated energy storage bi-directional rate capability, with integrated UL-certified fire suppression and cooling system. (PSC 6140 and NAICS 335911/35912).

Description of Market Research and Justification: Recipient conducted market research and industry outreach in October 2024. DOE market research was conducted in July 2024 – March 2025.

Market research and industry engagement conducted by the recipient revealed a shortage of Build America, Buy America Act (BABA) compliant BESS manufacturers that produce the battery size, type, and voltage requirements needed for various projects. Similar research by staff, corroborates these findings confirming the absence of BABA-compliant BESS manufacturers.

The North American Battery Energy Storage System (BESS) 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.

Additionally, reference WAIVER NUMBER: 2025-01, issued on December 17, 2024, which underscores the scarcity by granting a nonavailability waiver for BABA-compliant BESSs. 2025-01 aligns with and reinforces the recipient's findings regarding the current limitations in domestic BESS manufacturing capabilities. The project performance is from July 2025-May 2027.

Impact Absent the waiver: Absent this waiver, this project would not be able to be completed without adverse financial impact on our consumers. Without this waiver, we would be unable to implement planned reliability and resilience improvements, including providing micro-grid functionality, and limiting outage times for our customers. Our estimates indicate that 29,000 customers would benefit from reduced outage times once the large project, of which this project is a phase, is completed. Furthermore, this project is essential for mitigating the increased likelihood of rolling blackouts forecasted by the North American Electric Reliability Corporation (NERC) in the Midcontinent Independent System Operator (MISO) market.

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.

Summary of Public Comments: The proposed waiver request was publicly posted by the Department of Energy for comments during the period of February 23, 2026, through March 11, 2026. No comments were received from the public, and therefore no substantive changes were made in response.