

**Department of Energy**  
**Build America, Buy America Act**  
**Proposed Project Specific Non-Availability Waiver**  
**For Wave Traps**  
**BABA WAV 2025-15**

**Proposed Waiver Summary:** The United States Department of Energy (DOE) Grid Deployment Office (GDO) is proposing a project nonavailability waiver of the manufactured products domestic preference requirement 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 for Midwest Energy, Inc. This proposed limited nonavailability waiver allows the recipient to purchase non-compliant wave traps.

**Duration of the Waiver:** The effective date of this waiver is from date of issue through the project performance period (until August 2029).

**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 of the project performance.

**Recipient:** Midwest Energy (LP6URZQUTW48)

**Total estimated project cost related to infrastructure:** \$144,660,119

**Estimated total cost of the products being waived:** \$185,468

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

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

**Funding Mechanics:** Funding for the infrastructure project is made available through the 2023 Funding Opportunity Announcement for Grid Resilience and Innovation Partnerships (GRIP) – Bipartisan Infrastructure Law (BIL) – Smart Grid (DE-FOA-0002740). The location of the project is Hays, Kansas.

**Description of Covered Items:** The infrastructure project includes 115kV (Qty. 2) and 69kV (Qty. 5) wave traps (NAICS: 237130 and PSC: 5915).

**Description of Market Research:** Recipient conducted market research and industry outreach in January 2024 – September 2024. DOE conducted market research in July 2024 – October 2024 to include NIST SSO 2024-283 in September 2024-October 2024.

The DOE utilized both online searches and consulted with industry experts. These revealed that there does not appear to be any wave traps manufactured in the U.S. that provide the specifications the recipient requires, that are also BABA compliant.

**Justification:** The recipient's and DOE's market research was not able to yield manufacturers who were able to meet the 55% cost of components requirement for the manufactured products listed above that are required for the project's completion. After extensive outreach, no domestic manufacture was able to provide the materials necessary to meet the BABA requirements for all products specified in this waiver. This supplier is a US company and the product is manufactured in Brazil. These requirements are important for grid resilience and decarbonization goals of the FOA. The recipient plans to procure the products by January 2025.

**Impact Absent the waiver:** Absent this waiver, the project would not be able to be completed, move forward, nor would project exist given that the wave traps are the primary products the recipient is seeking. The upgrades to the increased wave trap capacity allow for greater power flow and relieving transmission congestion. Any delete in this waiver would affect community benefits plans.

**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 wave traps 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 August 25, 2025**, and must be submitted by email to the DOE Contracting Officer at **BABAWaiverComment@netl.doe.gov**. Please put "BABA WAV 2025-15 - Midwest Energy Wave Traps" in the subject line of the email.