



August 15, 2022

Mr. Dan Coogan  
Office of Resources and Business Operations  
Office of Mission Support  
U.S. Environmental Protection Agency

Via email

**Re: Comments on EPA’s proposed Build America, Buy America waiver for small projects**

Dear Mr. Coogan:

The Association of Metropolitan Water Agencies (AMWA) appreciates the opportunity to comment on EPA’s proposed public interest waiver of the requirements of section 70914(a) of the Infrastructure Investment and Jobs Act of 2021 (IIJA) for projects with total federal funding in amounts equal to or less than \$250,000. While AMWA appreciates and supports EPA’s willingness to waive the new Build America, Buy America (BABA) rules for certain projects, the association believes the agency should increase the dollar amount threshold. Specifically, AMWA believes these waivers should apply to projects with total federal funding of \$1.2 million or less.

AMWA supported passage of IIJA and is pleased with the historic investment it contains to enable communities to replace lead service lines and address emerging drinking water contaminants. Water utilities will rely on these funds to complete important projects pivotal to providing safe, clean drinking water to the public. Recently, these historic investments have been dampened by increasing costs of labor and materials. Price increases have been recorded as high as 50% per project this year.<sup>1</sup> Adding on costs to comply with the Build America, Buy America mandate would put additional stress on already tight budgets. Due to increasing costs, it would be in the interest of the public to increase the small project waiver dollar threshold to reduce burdens put on smaller projects already struggling with higher than anticipated costs.

<sup>1</sup> <https://www.circleofblue.org/2022/world/inflation-weighs-on-u-s-water-utilities/?msclid=e8ee6aabb4c11eca3837c4fdc63e63c>

**BOARD OF DIRECTORS**

**PRESIDENT**

Angela Licata  
New York City Department of  
Environmental Protection

Mike Armstrong  
WaterOne

Robert Hunter  
Municipal Water District of  
Orange County

Holly Rosenthal  
Phoenix Water Services  
Department

**VICE PRESIDENT**

John Entsminger  
Las Vegas Valley Water  
District

Tad Bohannon  
Central Arkansas Water

Ghassan Korban  
Sewerage and Water Board of  
New Orleans

John P. Sullivan, Jr.  
Boston Water and Sewer  
Commission

**TREASURER**

Yvonne Forrest  
Houston Water

Shane Chapman  
Metropolitan Water District of  
Southern California

Carrie Lewis  
Portland Water District

Timothy Thomure  
Tucson Water

**SECRETARY**

Jeffrey Szabo  
Suffolk County Water Authority

Scott Dewhirst  
Tacoma Water

James S. Lochhead  
Denver Water

Paul Vojtek  
Erie Water Works

**CHIEF EXECUTIVE**

**OFFICER**  
Tom Dobbins

Randy E. Hayman  
Philadelphia Water Department

Joe Mantua  
Beaufort Jasper Water & Sewer  
Authority

In addition, one program essential to drinking water utilities is the Drinking Water State Revolving Fund (DWSRF). While EPA has already proposed a Build America, Buy America waiver for SFR-funded projects that have submitted engineering plans and specifications prior to May 14, 2022, many smaller projects under the program that submitted plans after this date would not be eligible for a waiver. During the 2019 fiscal year (FY), loan funds were awarded to projects through the DWSRF ranging in amounts from \$875 to \$158,000,000, with the average award being \$3 million.<sup>2</sup> AMWA believes it would be in the public interest to waive the new Build America, Buy America requirements for projects with total federal funding up to \$1.2 million – slightly less than half the amount of the average DWSRF loan in FY19. This would ensure that a greater number of projects receiving relatively small federal funding awards would be exempt from the expanded Build America, Buy America rules, but would also continue to apply the new requirements to projects that receive something approaching a typical amount of DWSRF aid.

In comparison, the Assistance for EPA’s Small and Disadvantaged Communities Drinking Water Grant program in FY18 and FY19 had an average award of approximately \$1.17 million.<sup>3</sup> In its proposal, EPA states this waiver is meant to reduce “the administrative burden to potential assistance recipients, including predominantly small and disadvantaged communities, where the costs of compliance with BABA could significantly negate the benefits of the smallest grants and projects.” Therefore, given that the average award for EPA’s program dedicated to small and disadvantaged communities is \$1.17 million, it would be prudent for the Build America, Buy America exemption that is intended to reduce burdens on small funding recipients to be set closer to this figure, with a buffer for inflation, than EPA’s proposal of \$250,000. Future waivers should also take into account inflation and adjust the project award amount threshold accordingly.

Again, to better ensure that smaller projects have the flexibility to maximize the benefits of these awards, AMWA recommends setting the threshold for Build America, Buy America waivers for small projects at \$1.2 million. EPA acknowledges in the proposal that, without this waiver, the agency would have to spend a significant amount of staff and contractor time processing project-specific waivers. By increasing the project threshold to \$1.2 million, EPA would increase the number of projects granted this administrative relief, saving resources that can be used elsewhere by these project sponsors. This will also allow for swift review of requests for waivers from larger projects that may also be in the public interest.

Thank you for the opportunity to comment on this matter. AMWA looks forward to continuing to work with EPA to promote cost-effective water infrastructure investment.

---

<sup>2</sup> <https://www.epa.gov/system/files/documents/2022-04/2019-annual-report-final-508compliant.pdf>

<sup>3</sup> <https://www.epa.gov/dwcapacity/small-underserved-and-disadvantaged-communities-program-grantees>

Mr. Dan Coogan  
August 15, 2022  
Page 3

Sincerely,

A handwritten signature in cursive script, appearing to read "Thomas Dobbins".

Thomas Dobbins  
Chief Executive Officer

cc: Radhika Fox, OW  
Jennifer McLain, OGWDW  
Lynnann Hitchens, OMS