



FEMA

Mar. 15, 2024

**Build America Buy America Act Approved Nonavailability Waiver:
Weber Basin Water Conservancy District
Davis Aqueduct Reach 1 Parallel Pipeline
Double Offset Butterfly Valves, Plunger Valves, and Actuators**

1. Summary

Agency: Federal Emergency Management Agency (FEMA)

Waiver: FEMA is issuing a nonavailability waiver of the manufactured product 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) for double offset butterfly valves, plunger valves, and actuators used in the Davis Aqueduct Reach 1 Parallel Pipeline Project for the Weber Basin Water Conservancy District in Utah.

Applicability: This waiver action permits the use of non-domestic double offset butterfly valves, plunger valves, and actuators in the Davis Aqueduct Reach 1 Parallel Pipeline Project. These products will be obtained by the Weber Basin Water Conservancy District and incorporated into the subject project, prior to the expiration date of the waiver.

Waiver type: Nonavailability waiver of a BABA-compliant domestic product.

Waiver level: Project-specific waiver.

Summary of items covered in the waiver: Double offset butterfly valves, plunger valves, and actuators (manufactured products).

Waiver justification summary: Double offset butterfly valves, plunger valves, and actuators are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality for use in the identified project.

Length of the waiver: This waiver will be in effect from Mar. 15, 2024, and will remain in effect until Dec. 31, 2025, the estimated remainder of the project construction schedule.

2. Background

The Buy America Preference set forth in section 70914 of the Build America, Buy America Act included in the Infrastructure Investment and Jobs Act (Pub. L. No. 117-58), requires all iron,

steel, manufactured products, and construction materials used for infrastructure projects under Federal financial assistance awards be produced in the United States.

Under section 70914(b), FEMA may waive the application of the Buy America Preference, in any case in which it finds that: applying the domestic content procurement preference would be inconsistent with the public interest; types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality; or the inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25%. All waivers must have a written explanation for the proposed determination; provide a period of not less than 15 days for public comment on the waiver; and submit the waiver to the Office of Management and Budget Made in America Office for review to determine if the waiver is consistent with policy.

Double Offset Butterfly Valves:

Weber Basin Water Conservancy District requested a product-specific waiver for the Av-Tek DEX double offset butterfly valve, with no approved equals. This product is necessary to ensure that there is no leakage, and this valve is a 100% leak-free valve by preventing the elastomeric seal from being compressed by the disc when the valve is in the open position. This valve also meets the required technical specifications of complying with the American Water Works Association C504 Standard, which means that the valve allows a maximum velocity of 16 feet per second.

The District requested a nonavailability waiver due to the project design being specific to this valve. The project design began in 2019, before BABA requirements. Although the Av-Tek DEX double offset butterfly valve is specifically requested for this project, Av-Tek's valve is not currently BABA-compliant. Any delays due to domestic preference requirements, including waiting for Av-Tek to become compliant or long lead times, continue to put the public at risk of a water delivery failure if a seismic event were to occur. Additionally, the District's goal is to ensure resiliency as quickly as possible and any delays, such as those previously noted, would most likely result in missing major milestones for the project.

Plunger Valves:

Weber Basin Water Conservancy District requested a product-specific waiver for the Armacon GmbH or VAG GmbH plunger valves, with no approved equals. The purpose of the plunger valve is to provide linear flow control for proper operation of the system. The District's specified Armacon or VAG plunger valves will eliminate all leakage, which will prevent any unnecessary issues during maintenance.

The District requested a nonavailability waiver due to the design being specific to this valve. The design began in 2019, before BABA requirements. The District's specifications list two brands of plunger valves with no approved equals, and neither brand is BABA-compliant. Any delays due to domestic preferences or long lead times continue to put the public at risk of a water delivery

failure if a seismic event were to occur. Additionally, the District's goal is to ensure resiliency as quickly as possible and any delays, such as those previously noted, would most likely result in missing major milestones for the project.

Actuators:

Weber Basin Water Conservancy District requested a product-specific waiver for the Rotork IQ Series actuator. The purpose of the actuator is to provide remote operation of the system valves. The District's priority is to use an actuator that meets all of the project's specifications. Specifically, the required actuator for this project needs a quarter turn worm gear that is only found on the proposed actuator. Although two BABA-compliant actuator manufacturers were identified through market research, neither could meet the requirements set forth in the specifications.

The District requested a nonavailability waiver due to the design being specific to this actuator. The design began in 2019, before BABA requirements. The District found two BABA-compliant actuators but found that they did not meet the requirements needed for this project, specifically the electronic component requirements. Furthermore, neither manufacturer is able to manufacture a multi-turn electric actuator quarter turn worm gear domestically under their company brand. Any delays due to domestic preferences or long lead times continues to put the public at risk of failure to deliver water if a seismic event were to occur. Additionally, the District's goal is to ensure resiliency as quickly as possible and any delays, such as those previously noted, would most likely result in missing major milestones for the project.

3. Description of Award

Title of project: The Davis Aqueduct Reach 1 Parallel Pipeline

Infrastructure project description and location: The Davis Aqueduct Reach 1 Parallel Pipeline is the construction of a parallel pipeline and appurtenances to increase the resiliency of the Davis Aqueduct. This project is being constructed in Layton, Utah. The proposed project is to construct 2.2 miles of 72-inch welded steel pipeline to provide a resilient water supply to the existing Davis North Water Treatment Plant. Additional appurtenances include the construction of two pump stations to provide the necessary resiliency to the system. The overall project will be built in several phases that will be determined by funding availability.

Description of project: The project consists of the following major components:

- Construction of a parallel pipeline and appurtenances to increase the resiliency of the Davis Aqueduct.
- Construct 2.2 miles of 72-inch welded steel pipeline to provide a resilient water supply to the existing Davis North Water Treatment Plant.
- Construction of two pump stations to provide the necessary resiliency to the system.

Recipient Name: Weber Basin Water Conservancy District
Unique Entry Identifier (UEI): KNKAVN81K1P9

Federal Financial Assistance Program: Building Resilient Infrastructure and Communities (BRIC)

Total Project Amount: \$87,000,000

Federal Financial Assistance Funding Amount: \$21,586,182

4. Description of Covered Items

Manufactured products: This waiver seeks an exception to the Buy America requirements for the following manufactured products:

- **Double Offset Butterfly Valves:**
 - NAICS: 332911
 - PSC: 4810

- **Plunger Valves:**
 - NAICS: 332911
 - PSC: 4810

- **Actuators:**
 - NAICS: 333995
 - PSC: Not Available

5. Waiver Justification Summary

Anticipated impact if no waiver is issued: The double offset butterfly valves, plunger valves, and actuators referenced above are essential products that are required for the completion of the project. These products are not manufactured within the United States in sufficient quality or quantity. Although BABA-compliant products were identified, none entirely met the required specifications and had long lead times. This project does not have any approved equals for the three products and long lead times will put the project behind schedule. If a waiver is not approved, this project will fall behind on its milestones and may put the public at risk of failure to deliver water if a seismic event occurs.

Description of efforts made to identify domestic products: FEMA conducted limited market research to determine if there are domestic manufacturers that can produce or supply double offset butterfly valves. FEMA contacted 17 manufacturers for double offset butterfly valves, nine manufacturers for plunger valves, and 14 manufacturers for actuators. Most manufacturers contacted either confirmed they cannot manufacture these products to meet the project specifications, did not respond to inquiries, or their products are not BABA-compliant.

Market research for double offset butterfly valves resulted in two U.S. manufacturers being identified: DeZURIK and Val-Matic. Val-Matic could only offer BABA-compliant double offset butterfly valves that are similar to, but not equal to, the specifications set forth by the project and the lead time would be 48-52 weeks. Thus, they are not a viable option for this project, given that the project has no approved equals for this product. Similarly, the lead time for DeZURIK's BABAA-compliant double offset butterfly valves would be 26-30 weeks and while similar, they are not an exact match to the required specifications. Long lead times would prevent the project from meeting their planned milestone dates, which would in turn leave the public vulnerable to a water delivery failure if a seismic event were to occur.

Market research for plunger valves resulted in one U.S. manufacturer being located, Henry Pratt. According to the manufacturer, the design of their plunger valve would operate in a "very similar manner" to the one specified by the project, but not meet exact specifications. This project has no approved equals for the required plunger valves. Not meeting exact specifications would prevent the project from proceeding as expected and lead times would be around 52 weeks, which would further set the District's project milestones back. The project not meeting its milestones by their planned dates would leave the public vulnerable to water delivery failure if a seismic event were to occur.

Market research for actuators resulted in one domestic, BABA-compliant manufacturer being located, which is DeZURIK. They can supply the butterfly valve actuators and have their own manual gear boxes. Lead time was not provided nor what specifications could or could not be met. Thus, they are not a viable option for this project. The quarter turn worm gear that is needed for the actuator required by this project is only found on the Rotork actuator specified above.

6. 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 public interest waiver. FEMA'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.

7. Solicitation for Comments

The proposed waiver was posted on [FEMA's public facing webpage](#) on Jan. 29, 2024 and a notice of the proposed waiver was also posted to the [Made in America website](#) on Jan. 29, 2024, to satisfy the requirement to publish any Build America, Buy America Act Project Waiver and provide the public with 15 days to submit comments. FEMA sought public and industry comments from all interested parties and encouraged current manufacturers of the subject products to submit comments regarding potential availability. The comment period for this proposed waiver closed on Feb. 13, 2024. No comments were received in response to the public posting of the waiver, and therefore no substantive changes were made in response.

For more information on the Build America, Buy America Preference, please reference <https://www.fema.gov/grants/policy-guidance/buy-america> or [MadeinAmerica.gov](#).

Robert A. Farmer

Robert A. Farmer
Deputy Assistant Administrator, Office of Enterprise Grant
Services, Grant Programs Directorate