



**Dec. 22, 2023**

**Build America Buy America Act Approved Nonavailability Waiver:  
Weber Basin Water Conservancy District  
Davis Aqueduct Reach 1 Parallel Pipeline  
Earthquake Resistant Mechanical Joints and Vertical Pumps**

**1. Summary**

Agency: Federal Emergency Management Agency (FEMA)

Waiver: FEMA is issuing a nonavailability waiver of the requirements of section 70914 of the Build America, Buy America Act included in the Infrastructure Investment and Jobs Act (Pub. L. No. 117-58) for earthquake resistant mechanical joints and vertical pumps 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 earthquake resistant mechanical joints and vertical pumps in the Davis Aqueduct Reach 1 Parallel Pipeline Project funded by one federal assistance award. 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 of a BABA-compliant domestic product.

Waiver level: Project-specific waiver.

Summary of items covered in the waiver: Earthquake resistant mechanical joints (iron or steel product) and vertical pumps (manufactured product).

Waiver justification summary: Earthquake resistant mechanical joints and vertical pumps 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 Dec. 22, 2023 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.

Earthquake resistant mechanical joints: The Weber Basin Water Conservancy District requested a product specific waiver for the Kubota Corporation, Type S mechanical joint. This joint is a necessary requirement of the project to achieve the seismic resiliency desired. The primary seismic design engineer required this type of joint as the best possible option to reduce risk of failure in a seismic event. The joint performance listed in the specification can be met with the proposed mechanical joint.

The District requested a nonavailability waiver due to the design being specific to this particular joint. The design began in 2019 prior to BABA requirements being in place on this project. In addition, all major design elements had taken place prior to Jan. 1, 2023. Changing joints would also change the design intent of the original design engineer. Also, any delay due to domestic lead times continues to put the public at risk of failure to deliver water if a seismic event occurs. The District's goal is to ensure resiliency as quickly as possible and any delays would most likely result in missing major milestones for the project.

Attempts to find alternative joints to meet the design intent occurred during the design phase prior to bidding. The District felt it necessary to meet the design intent by utilizing the Kubota Joint. Where able, other joint types have been utilized. These joints are specifically needed in the area between a new structure and an existing structure that will need movement in multiple directions in compressive and lateral directions.

Vertical Pumps: Weber Basin Water Conservancy District requested a product specific waiver for the Trillium Flow Technologies pump. This pump is a necessary requirement of the project to achieve the seismic resiliency desired. During the design phase the only manufacturer that would aid in the custom engineered variable speed pump was Trillium. This pump is a custom design due to the size and complexity of the project. Other manufactures declined to offer support for this design.

The District is requesting a nonavailability waiver due to the design being specific to this project. The design began in 2019 prior to BABA requirements being in place on this project. In addition, all major design elements had taken place prior to Jan. 1, 2023. There would be a 24-week increase in lead time for a domestically made product. A 24-week delay due to domestic lead time continues to put the public at risk of failure to deliver water in the event of a seismic event occurrence. The District's goal is to ensure resiliency as quickly as possible and any delays 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. 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

BRIC Portion of Funding: \$21,586,182

### 4. Description of Covered Items

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

- **Earthquake Resistant Mechanical Joints:**  
NAICS: 331210 - Iron and Steel Pipe and Tube Manufacturing from Purchased Steel  
PSC: 4710 – Pipe, Tube, and Rigid Tubing
- **Vertical Pumps:**  
NAICS: 333996 – Fluid Power Pump and Motor Manufacturing

## **5. Waiver Justification Summary**

Anticipated impact if no waiver is issued: The earthquake resistant mechanical joints and vertical pumps 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. If a waiver is not approved, this project’s construction will not be able to proceed.

Description of efforts made to identify domestic products: Attempts to find domestic manufacturers for earthquake resistant mechanical joints and vertical pumps by the project occurred during the design phase prior to bidding. No domestic manufacturers were found for earthquake resistant mechanical joints, and the project indicated a minimum 24-week delay for domestic vertical pumps.

FEMA conducted market research to determine whether there are domestic manufacturers that can produce or supply earthquake resistant mechanical joints and vertical pumps. FEMA contacted 11 manufacturers for earthquake resistant mechanical joints and 13 manufacturers for vertical pumps. All manufacturers contacted either confirmed they cannot manufacture these products to meet the project specifications, did not respond to inquiries, or their products are not BABAA-compliant. Market research for earthquake resistant mechanical joints and vertical pumps resulted in no known U.S. manufacturer being located.

## **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 Nov. 22, 2023 and a notice of the proposed waiver was also posted to the [Made in America website](#) on Nov. 22, 2023 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 Dec. 7, 2023. No comments were received in response to the public posting of the waiver.

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

A handwritten signature in black ink, appearing to read "Robert A. Farmer". The signature is fluid and cursive, with a long horizontal stroke at the end.

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