



May 15, 2017

The Honorable Ryan Zinke
Secretary
Department of the Interior
1849 C Street, NW
Washington DC 20240

The Honorable Scott Pruitt
Administrator
Office of the Administrator 1101A
Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Secretary Zinke and Administrator Pruitt:

On behalf of the WaterReuse Association, I am writing to express concerns with potential unintended consequences from the implementation of President Trump's Executive Order (EO) entitled, "Presidential Executive Order on Buy American and Hire American," dated April 18, 2017. A strict implementation of the EO by the Department of the Interior (Interior) and the Environmental Protection Agency (EPA) could restrict the adoption of new, cutting-edge, critical technology needed to update the country's aging water infrastructure system, add burdensome and bureaucratic hurdles to critical infrastructure projects, reduce uniformity of parts and supplies for repair and replacement, increase required inventory and associated space, and increase costs to projects funded predominantly by our local ratepayers. Interior and EPA should consider these impacts to community infrastructure projects and provide for a flexible waiver policy that would allow for timely completion of water reuse projects.

The WaterReuse Association is a not-for-profit association (501c6) of water utilities, government agencies, and consulting firms and equipment suppliers that advocates for federal and state laws, policies and funding to promote water reuse and recycling. Our members represent more than 200 communities and 60 million utility customers around the country. Ultimately, WaterReuse believes in the same principles that reside at the foundation of the EO; that is, "...to promote economic and national security and to help stimulate economic growth, create good jobs at decent wages, strengthen our middle class, and support the American manufacturing and defense industrial bases..." However, flexibility in the application of this well-intentioned EO by the federal agencies which administer water infrastructure funding is of critical importance.

We believe applying strict Buy America requirements to manufactured goods under the Clean Water and Drinking Water State Revolving Funds, as well as water infrastructure projects funded by the Bureau of Reclamation, could act as an impediment to communities seeking to upgrade and secure their water supply and treatment. Likewise, when the Buy America provision is triggered by other projects, such as transportation projects that require relocation of water and wastewater utilities, the negative impacts are the same to the water or wastewater utility. Our country's water systems require access to the best available technologies to ensure clean and reliable drinking water, safe treatment of wastewater, defense from floods and droughts, and protection from potential cyber intrusions that could threaten the public health. Restricting the use of critical technologies would constrain our

ability to meet these important goals, and will only increase the water and wastewater service rates paid by Americans.

Additionally, we have serious concerns that the agency guidelines associated with this EO will add costly regulatory and bureaucratic burdens on municipal utilities and their suppliers. Forcing utilities to track the content of thousands of suppliers, which will result in exponentially increasing the complexity of paperwork and record-keeping, and would likely cause project construction to be delayed. For example, Eastern Municipal Water District (EMWD) of California, a member of the WaterReuse Association, experienced challenges and delays with the Buy American provisions during the American Recovery and Reinvestment Act that resulted in significantly increased project expenses. Ensuring compliance with Buy American provisions required the completion of additional forms and letters of certification by EMWD and its contractors to verify the origin of their products. The submittals were frequently rejected, adding additional time and expense. Many of the American products purchased to ensure compliance were substantially more expensive than imported products. EMWD was also required to take photos of the equipment tags/stickers and catalogue the images to retain proof that it was in fact produced in the USA, for audit purposes, which was a tremendous administrative burden. This is just one of many examples of the problems caused by the Buy American provisions.

Another example of the unintended consequences comes from Arizona where the construction of a new highway is requiring a utility to relocate pipelines, laterals, and wells. The Buy American provision was triggered by Federal funds being used to pay for the project. While the water utility itself does not have Buy America requirements, the Buy America provisions were imposed on the utility by the Federal funding nexus. In this case, the additional expenses were passed along to the Arizona Department of Transportation, but the utility's entire procurement and inventory system had to be modified and updated to track compliance with, and accommodate the requirements of, the Buy America provision. Once new equipment and materials that are not uniform with the existing equipment were purchased, the utility needed to stock supplies for repair and replacement of the new equipment as well as for the other standardized equipment it already had. Further, the extent and scope of the provision is unclear. For example, after numerous attempts to gain clarification, it remains uncertain if the provision applies only to large equipment, or if everything down to nuts and bolts need to meet the Buy America provision.

We believe that a strict implementation of the EO by Interior and EPA would result in unintended consequences for water agencies, including increased regulatory and bureaucratic processes, project delays, and higher project costs. The federal government should heed the lessons learned during implementation of the American Recovery and Reinvestment Act, where a similar mandate led to major project delays. We ask that you consider these potential impacts and urge Secretary Zinke and Administrator Pruitt to implement the Buy America EO in a manner that does not add undue regulatory burdens, lead to project delays, and result in higher costs to constructing critical water infrastructure projects. Thank you for your continued support of water infrastructure funding and for your attention to this very important issue. Should you or a member of your staff have any questions, please contact Ian Wolf, Legislative Director at WaterReuse at 571-445-5504 or iwolf@watereuse.org.

Sincerely,

Guy Carpenter
President