



# WATERREUSE®

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April 1, 2022

The Honorable Celeste E. Drake

Director, Made in America Office

Office of Management and Budget

725 17th Street, N.W.

Washington, D.C. 2050

Dear Director Drake:

As you work to implement the historic Infrastructure Investment and Jobs Act (IIJA), we write to offer our support and partnership and to highlight several key implementation considerations related to the *Build America, Buy America* (BABA) provision.

The WaterReuse Association thanks you for your continued leadership engaging industry stakeholders and the federal interagency group as OMB develops guidance related to BABA. We appreciated the opportunity to speak with the federal interagency group on March 28<sup>th</sup>, 2022. As requested by the Made in America Office, we are sharing our concerns. We submit this letter as a follow up to two previous letters submitted jointly with the water industry in January 2022, and with multiple sectors in March 2022.

The WaterReuse Association is a not-for-profit trade association for water utilities, businesses, non-profit organizations, and research entities that advocate for policies and programs to advance water recycling. WaterReuse and its state and regional sections represent nearly 250 water utilities serving over 60 million customers, and over 200 businesses and organizations across the country.

WaterReuse and our members were deeply involved in the development and enactment of the IIJA. We worked closely with Congress to ensure that the legislation supports water recycling as a resiliency tool. As the only national organization solely dedicated to advancing water reuse, we highlight the following concerns regarding the implementation of IIJA's BABA provision.

To safely and reliably treat recycled water to meet rigorous standards, water reuse and recycling facilities utilize certain equipment and advanced water treatment technologies that include products not able to be sourced in the United States, with no equally efficient and effective alternatives.

After conducting outreach to our members, we identified the following essential advanced water treatment technologies that incorporate products sourced outside the United States:

- Membranes and membrane bioreactors
- Ultra-violet treatment
- Valves and appurtenances
- Pumps
- Motors
- Reverse osmosis system equipment and piping
- Ozone treatment

A specific example of a manufactured good that is a critical component of wastewater treatment plant construction but for which an American-made product is not available is PVC materials utilized to protect concrete surfaces at wastewater utilities. The specific product needed is called T-Lock, which previously was manufactured in the United States but has since been discontinued. A Taiwanese company (Union Plastics) has stepped in to create the PVC sheet T-Lock and is the sole manufacturer of such product leaving U.S. utilities with no alternative. This type of product must have an immediate waiver issued, or we risk having many wastewater treatment projects either come to a standstill or be forced to use inferior alternatives that will not provide the same performance characteristics.

We are concerned that the new Buy American requirements may result in monopolies for some advanced treatment technologies employed in water reuse and recycling projects. A specific example is membrane and membrane bioreactor technologies essential for advanced treatment trains used to produce purified water (for which \$1 billion was provided to the Bureau of Reclamation in IJJA) and production of activated carbon treatment systems often used to treat emerging contaminants such as per- and polyfluoroalkyl substances (PFAS) (for which \$5 billion was provided in IJJA). We are concerned that the requirements may result in a single company acquiring a monopoly over production of products such as membranes and membrane bioreactors and activated carbon. We anticipate the formation of a monopoly will lead to higher prices and supply constraints.

Additionally, in soliciting feedback from our members, they urged the following issues be clarified in the guidance:

1. Would repairs, components/parts, service parts or consumable chemicals also be considered a manufactured product under the Infrastructure Law? When sold separately, would these need to be sourced domestically?
2. What is the required documentation to prove a manufactured product is made in America? How far back into the supply chain does this reach?
3. Assembling costs - Does domestic labor count towards the 50-55% domestic cost or only components?



4. Is the percentage of domestic materials expected to be progressive (e.g. 55% now, 65%, 75% later)?
5. How do tariffs or free trade agreements impact goods sourced from overseas?
6. What is the required documentation by the compliance deadline of May 15?

In addition to the tens of billions of dollars provided to the U.S. EPA's Clean and Drinking Water State Revolving Fund Programs, the IJA provides \$550 million for the Title XVI Water Reclamation and Reuse Grants Program (SEC. 40901), and \$450 million for a new competitive grants program for large scale water recycling projects (SECS. 40901 and 40905). These programs are administered by the U.S. Bureau of Reclamation in the 17 Western States. Given the large increase in funding for water reuse relative to prior years, it is critical that eligible entities can efficiently access these funds. Without an adequate waiver process and compliance timeline for meeting BABA requirements, utilities will be unable to secure the best-in-class technologies that they need to implement water recycling projects efficiently and effectively.

We urge OMB to provide a general applicability waiver for water reuse and recycling project technologies to more swiftly roll out funding to support communities, especially given that much of the West is experiencing extreme drought conditions, and water reuse can be one of the few new sources of water available to communities. Thus, expediting implementation of these projects is critical to public welfare and is in the national interest.

When considering the timeframe, the proposed six-month implementation period is disconnected from the reality of global supply chain markets. Such a compressed period is not long enough for industries or project sponsors to understand the implications of the new Buy America requirements, to identify project priorities and needs, or to even set in motion the complex activities required to re-shore domestic production activities. Additional time should be provided as the nation gears up to strategically re-shore production activity where enhanced domestic production is necessary to support national security and mitigate other supply chain risks.

Finally, we urge OMB to continue the interagency dialogue that includes sector stakeholders through listening sessions, information meetings, and more.

WateReuse looks forward to working with you and your team to implement these programs and to bring about the implementation of many new climate-resilient projects across the United States.

Sincerely,



Patricia Sinicropi  
Executive Director

