



Rural Development

Rural Utilities Service

Water & Environmental Programs

1400 Independence Ave SW
Washington, DC 20250

DECISION MEMORANDUM

DATE: 13 August 2024

SUBJECT: Availability-Based Project-Specific Waiver of American Iron and Steel Requirements for 20 replacement panels for an existing glass lined steel sludge storage tank for the Village of Lyndon Station’s WWTP Improvements Project in Juneau County, WI

Waiver Number: 24-002

FROM: Steven Polacek
Director
Water and Environmental Programs

Decision: The U.S. Department of Agriculture (USDA) is hereby granting an availability-based project-specific waiver of American Iron and Steel (AIS) requirements to the Village of Lyndon Station for the replacement purchase of twenty (20) replacement panels for an existing glass lined steel sludge storage tank for its Wastewater Treatment Plant Improvements Project in Juneau County, WI. This waiver permits the use of non-domestic replacement glass lined steel panels because no known domestic manufacturers can deliver a product that meets the project’s technical specifications.

This is a project-specific waiver which applies only to the use of the specified product for the referenced project funded by the USDA Rural Development (RD) Rural Utilities Service (RUS) Water and Waste Disposal (WWD) Loan and Grant program under the Water and Environmental Programs (WEP). Any other project that wishes to use the same product must submit a separate waiver request based on the specific project circumstances.

Rationale: The AIS provision of the Consolidated Appropriations Act of 2017 (Public Law 115-31) and subsequent statutes require WEP assistance recipients to use domestic iron and steel products unless RD determines that it is necessary to waive this requirement. USDA has the authority to issue waivers in accordance with section 746 (b)(2) of P.L.115-31, which states in part: “[the requirements] shall not apply in any case or category of cases in which the Secretary of Agriculture ... or the designee of the Secretary finds that ...iron and steel products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality.” As per the delegation memo of July 2017, approval of project specific waivers has been delegated to the Engineering and Environmental Staff Director.

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Background of Waiver Request: The Village of Lyndon Stations' Wastewater Treatment Plant Improvements Project in Juneau County, WI, includes replacement of 20 panels on an existing glass lined steel storage tank in their wastewater system. The contractor stated that they could not find a manufacturer to furnish an assembly that adhered to AIS requirements, and furnished documentation from three suppliers corroborating this.

USDA's AIS contractor then contacted seven manufacturers and suppliers between June 4 – June 10, including those contacted by the applicants. Of the companies that responded, none of them manufacture replacement glass lined steel panels meeting both the project specifications and domestic preference requirements.

The Village of Lyndon submitted to RD a formal request to waive AIS requirements for the assemblies on July 9, 2024. Per statutory requirement, the waiver request was posted on RD's AIS website for a 15-day public comment period, and the Agency received no comments.

Finding: USDA is granting an availability-based waiver from the AIS requirements to the Village of Lyndon, WI for twenty (20) replacement panels for the existing glass lined steel sludge storage tank. This waiver permits the purchase of these panels using WEP funds for the Wastewater Treatment Plant Improvements Project as documented in the waiver request submittal.

Legal Authority: Legal authority for the AIS requirements for WEP projects is included under the Consolidated Appropriations Act of 2017 and subsequent statutes, under the authority of section 746 (b)(2) of P.L.115-31.

If you have questions concerning the contents of this memorandum, please contact WEP Engineering at WEPEngineering@usda.gov.