



At a Glance

The EPA Does Not Always Track the Use of Build America, Buy America Act Waivers for Infrastructure Projects

Why We Did This Project

To accomplish this objective:

The U.S. Environmental Protection Agency Office of Inspector General conducted this project to quantify the extent to which the EPA is issuing Build America, Buy America Act waivers for infrastructure projects. To answer our objective, we analyzed all approved and pending EPA Build America, Buy America Act waivers; reviewed applicable regulatory guidance and each waiver decision memorandum that the Agency published for public comment; and analyzed Agency data on infrastructure projects subject to the Build America, Buy America Act.

The Build America, Buy America Act focuses on maximizing the federal government's use of services, goods, products, and materials produced and offered in the United States. The Build America, Buy America Act also allows for the use of both project-specific and general applicability waivers in certain contexts.

To support this EPA mission-related effort:

- *Operating efficiently and effectively.*

To address this top EPA [management challenge](#):

- *Managing grants, contracts, and data systems.*

Address inquiries to our public affairs office at (202) 566-2391 or OIG.PublicAffairs@epa.gov.

[List of OIG reports.](#)

What We Found

As of December 2023, the EPA had issued 11 Build America, Buy America Act waivers. However, the EPA does not always track the use of these waivers across EPA-funded infrastructure projects. We found that the EPA only tracked the use of the Water Infrastructure Finance and Innovation Act program waivers. The EPA did not track the use of the other ten waivers. Build America, Buy America Act waivers can be categorized into two types: project-specific waivers and general applicability waivers. The Agency was unable to provide the number of award recipients that fall under either type of waiver and does not have a method in place to track this information.

Project-specific waivers only apply to one project and are typically initiated by the award recipient. General applicability waivers apply to multiple projects and are designed in the interest of efficiency and to ease the administrative burden on award recipients. Generally, the EPA initiates the general applicability waivers, and any award recipient can use the waiver as long as the project meets the eligibility requirements. The EPA stated that it had developed a dashboard to track the approved waivers; however, the dashboard does not show which or how many projects or award recipients are using each waiver. Therefore, even with the waiver tracking dashboard, the EPA was unable to identify how many award recipients had used the approved waivers in their projects or to quantify how many infrastructure projects were subject to a waiver.

While there is no legal requirement for the EPA to track the use of waivers, Congress has advised that “every executive agency should scrupulously monitor, enforce, and comply with Buy American laws, to the extent they apply, and minimize the use of waivers.” With approximately \$60.3 billion in Infrastructure Investment and Jobs Act projects potentially subject to Build America, Buy America Act requirements, the EPA needs to develop and implement a method to track all waiver use. Without tracking the use of such waivers, the EPA may not be able to maximize use of U.S. goods, products, and materials in EPA-funded infrastructure projects.

Without tracking the use of waivers, the EPA risks being unable to determine whether it is meeting the intent of the Build America, Buy America Act—bolstering America’s industrial base, protecting national security, and supporting high-paying jobs.

Recommendation and Planned Agency Corrective Actions

We recommend that the assistant administrator for Mission Support develop and implement a method to track all Build America, Buy America Act waiver use across EPA-funded infrastructure projects. The Office of Mission Support agreed with our recommendation and provided acceptable proposed corrective actions and estimated completion dates. The Agency has stated the corrective actions are complete; however, we will continue to work with the Agency to verify the actions are complete. We consider this recommendation resolved.