

individual grant recipients. Having established both a proper basis to specify the particular good required for this project, and that this manufactured good was not available from a producer in the United States, Warren County is hereby granted a waiver from the Buy American requirements of Section 1605(a) of Public Law 111-5 for the purchase of a Trojan 4000 Plus medium-pressure, high-intensity ultraviolet disinfection system using ARRA funds as specified in the community's request of October 29, 2009. This

**SUPPLEMENTARY INFORMATION** constitutes the detailed written justification required by Section 1605(c) for waivers "based on a finding under subsection (b)."

**Authority:** Pub. L. 111-5, section 1605.

Dated: January 26, 2010.

**Walter W. Kovalick,**

*Acting Regional Administrator, Region 5.*

[FR Doc. 2010-10911 Filed 5-6-10; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

[FRL-9146-9]

### Notice of a Project Waiver of Section 1605 (Buy American Requirement) of the American Recovery and Reinvestment Act of 2009 (ARRA) to the Albuquerque Bernalillo County Water Utility Authority, New Mexico

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** The Regional Administrator of EPA Region 6 is hereby granting a project waiver of the Buy American requirements of ARRA Section 1605 under the authority of Section 1605(b)(2) [manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality] to the Albuquerque Bernalillo County Water Utility Authority ("ABCWUA") for the purchase of three hundred acoustic leak detection sensors/loggers ("loggers") and one fully programmable radio transceiver. The loggers and radio transceiver under consideration are manufactured by Gutermann, Inc., and no United States manufacturer produces an alternative that meets the ABCWUA's technical specifications. This is a project specific waiver and only applies to the use of the specified product for the ARRA funded project being proposed. Any other ARRA project that may wish to use the same product must apply for a separate waiver based on the

specific project circumstances. The Regional Administrator is making this determination based on the review and recommendations of the EPA Region 6, Water Quality Protection Division. The ABCWUA has provided sufficient documentation to support its request.

The Assistant Administrator of the EPA's Office of Administration and Resources Management has concurred on this decision to make an exception to Section 1605 of ARRA. This action permits the purchase of three hundred loggers and one radio transceiver containing goods not manufactured in America, for the proposed project being implemented by the ABCWUA.

**DATES:** *Effective Date:* April 28, 2010.

**FOR FURTHER INFORMATION CONTACT:**

Nasim Jahan, Buy American Coordinator, (214) 665-7522, SRF & Projects Section, Water Quality Protection Division, U.S. EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733.

**SUPPLEMENTARY INFORMATION:** In accordance with ARRA Section 1605(c) and 1605(b)(2), EPA hereby provides notice that it is granting a project waiver of the requirements of Section 1605(a) of Public Law 111-5, Buy American requirements to the ABCWUA for the acquisition of three hundred loggers and one radio transceiver (Model: Gutermann Zonescan 820). The ABCWUA has been unable to find an American made logger manufacturer to meet its specific requirements of cross correlation functionality for pinpointing leaks throughout its water distribution system.

Section 1605 of the ARRA requires that none of the appropriated funds may be used for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States unless a waiver is provided to the recipient by EPA. A waiver may be provided if EPA determines that (1) applying these requirements would be inconsistent with public interest; (2) iron, steel, and the relevant manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or (3) inclusion of iron, steel, and the relevant manufactured goods produced in the United States will increase the cost of the overall project by more than 25 percent.

The ABCWUA is implementing a comprehensive asset management program, and leak detection is critical to better management of its water system assets. The ABCWUA desires to quickly

and efficiently locate leaks in its wastewater distribution system and seeks ARRA funding to purchase loggers that can easily be deployed on the water distribution system, that are non-invasive, and are designed to detect noise generated from vibrations of water escaping from pipes. Efficient leak detection provides timely data on the types of leak and potential cause. It helps the utility authority in identifying high priority assets needing rehabilitation/replacement, which can effectively reduce the chances of catastrophic failure.

Accordingly, the ABCWUA on January 22, 2010 concluded an ARRA assistance agreement with the State of New Mexico to fund a project to procure and deploy leak detection equipment for its distribution system. The bid documents for the project include the specifications for loggers and one radio transceiver having cross correlation functionality for exactly pinpointing leaks throughout the water distribution system. The ABCWUA had received four bids for this project on January 20, 2010, and upon identifying Gutermann as the only bidder to provide a data logger that included this cross-correlation functionality, submitted a timely waiver request to EPA on February 5, 2010.

The ABCWUA is requesting a waiver for the use of three hundred loggers and one programmable radio transceiver (Model: Gutermann Zonescan 820) on the basis that there are no domestic manufacturers of the loggers that will meet the ABCWUA product specifications.

The ABCWUA authority received four bids for the acoustic leak detection equipment project. Among the four bidders, the bid submitted by Gutermann was the only leak detection logger that met ABCWUA's specifications. Specifically, the logger was required to have the feature of cross correlation functionality for pinpointing leaks. Gutermann's Zonescan 820 loggers automatically perform leak noise correlation for pinpointing the leak location. In addition, automatic multi-correlation provides precise positions between all loggers in the same project area. As this feature maximizes the efficiency and effectiveness of the crucial functions of enabling the ABCWUA to conserve and prevent contamination of scarce water supplies that have already been treated to comply with National Primary Drinking Water Regulations, EPA finds that the ABCWUA's specification of this feature is justified.

Although there are loggers that are manufactured in the United States, the

research conducted by Cadmus, the EPA Office of Water's national contractor, was unable to identify any domestically available loggers which meet the specifications and quality described in the project plans and designs. The contractor contacted four companies that manufacture loggers in the U.S. but none of these companies could provide loggers that offer integrated cross correlation functionality between loggers.

Additional research conducted by EPA Region 6 appeared to confirm that there are no domestic logger manufacturers that would meet the ABCWUA's technical specifications.

EPA's national contractor prepared a technical assessment report dated February 10, 2010 based on the waiver request submittal. The report determined that the waiver request submittal was complete, that adequate technical information was provided, and that there were no significant weaknesses in the justification provided. The report confirmed the waiver applicant's claim that there are no American-made loggers available for use in the water distribution system. Therefore, EPA Region 6 concludes that the loggers meet the "specifications in project plans and design."

The April 28, 2009 EPA HQ Memorandum, Implementation of Buy American provisions of P.L. 111-5, the "American Recovery and Reinvestment Act of 2009", defines reasonably available quantity as "the quantity of iron, steel, or relevant manufactured good is available or will be available at the time needed and place needed, and in the proper form or specification as specified in the project plans and design." The ABCWUA has incorporated specific technical design requirements for installation of loggers in its water distribution system. Therefore, it meets the requirements of the "satisfactory quality" criterion for requesting a waiver from the Buy American provisions of Public Law 111-5.

The purpose of the ARRA is to stimulate economic recovery in part by funding current infrastructure construction, not to delay projects that are "shovel ready" by requiring utilities, such as the ABCWUA, to revise their standards and specifications, institute a new bidding process, and potentially choose a more costly, less efficient project. The imposition of ARRA Buy American requirements on such projects otherwise eligible for State Revolving Fund assistance would result in unreasonable delay and thus displace the "shovel ready" status for this project. To further delay construction is in direct conflict with a fundamental

economic purpose of the ARRA, which is to create or retain jobs.

The Region 6 Water Quality Protection Division has reviewed this waiver request, and to the best of my knowledge at the time of review, has determined that the supporting documentation provided by the ABCWUA is sufficient to meet the criteria listed under ARRA, Section 1605(b), Office of Management and Budget (OMB) regulations at 2 CFR 176.60-176.170, and in the April 28, 2009, "Implementation of Buy American provisions of Public Law 111-5, the "American Recovery and Reinvestment Act of 2009" Memorandum." Iron, steel, and the manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality. The basis for this project waiver is the authorization provided in ARRA, Section 1605(b)(2). Due to the lack of production of this product in the United States in sufficient and reasonably available quantities and of a satisfactory quality in order to meet the ABCWUA's technical specifications, a waiver from the Buy American requirement is justified.

EPA headquarters' March 31, 2009 Delegation of Authority Memorandum provided Regional Administrators with the authority to issue exceptions to Section 1605 of ARRA within the geographic boundaries of their respective regions and with respect to requests by individual grant recipients. Having established both a proper basis to specify the particular good required for this project, and that this manufactured good was not available from a producer in the United States, the ABCWUA is hereby granted a waiver from the Buy American requirements of ARRA, Section 1605(a) of Public Law 111-5 for the purchase of three hundred loggers and one radio transceiver, using ARRA funds, as specified in the ABCWUA's request of February 5, 2010. This supplementary information constitutes the detailed written justification required by ARRA, Section 1605(c), for waivers "based on a finding under subsection (b)."

**Authority:** Public Law 111-5, section 1605.

Dated: April 28, 2010.

**Al Armendariz,**

*Regional Administrator, Region 6.*

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## ENVIRONMENTAL PROTECTION AGENCY

[EPA-New England Region I—EPA-R01-OW-2010-0316; FRL-9147-1]

### Massachusetts Marine Sanitation Device Standard—Receipt of Petition

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice—Receipt of Petition.

**SUMMARY:** Notice is hereby given that a petition has been received from the Commonwealth of Massachusetts requesting a determination by the Regional Administrator, U.S. Environmental Protection Agency, that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the waters of Pleasant Bay/Chatham Harbor, MA.

**DATES:** Comments must be submitted by June 7, 2010.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R01-OW-2010-0316, by one of the following methods: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

- *E-mail:* [rodney.ann@epa.gov](mailto:rodney.ann@epa.gov).
- *Fax:* (617) 918-0538.

*Mail and hand delivery:* U.S.

Environmental Protection Agency—New England Region, Five Post Office Square, Suite 100, OEP06-1, Boston, MA 02109-3912. Deliveries are only accepted during the Regional Office's normal hours of operation (8 a.m.-5 p.m., Monday through Friday, excluding legal holidays), and special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID No. EPA-R01-OW-2010-0316. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov>, or e-mail. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov> your e-mail