

identified by MEP. Accordingly, the City asked the Contractor to provide a price proposal for a change order that would accommodate the domestic units.

In order to accommodate the domestic unit significant work would need to be done to the roof and ductwork. This work would include:

“equipment curbs will be re-leveled using sloped 4x lumber to match the original rooftop duct work bottom layout and be attached to the building structure. 4 of the units will need to be set back to allow for the hookup and transition to the existing duct work. The roof portion from where the existing equipment curb was will be properly re-roofed. Some of the existing roof ductwork will be demolished and disposed of properly to allow for the hook up of new duct. All 8 units will get new rooftop duct transitions, duct, fittings and duct supports to accommodate the termination from the existing roof duct work to the new HVAC units and economizers. All utilities will be extended to terminate on the new equipment. The existing condensate system will be reconfigured to terminate to the new equipment. A/C #3 will have to have the existing stub ups for the high & low voltage relocated from the underside to accommodate the new equipment curb location and roofed in on completion.” (Contractor’s estimate, April 24, 2012)

The total cost of this additional work would be approximately \$29,770.00. The total cost of the manufactured goods would remain the same, \$52,350.00. The additional cost represents a 56.9% increase in total project costs.

Section 176.110 of Title 2 of the Code of Federal Regulations, entitled “Evaluating proposals of foreign iron, steel, and/or manufactured goods”, states that if “the award official receives a request for an exception based on the cost of certain domestic iron, steel, and/or manufactured goods being unreasonable, in accordance with § 176.80, then the award official shall apply evaluation factors to the proposal to use such foreign iron, steel, and/or manufactured goods.”

Per that section, the total evaluated cost = project cost estimate + (.25 × project cost estimate). The total cost of the project including the foreign manufactured HVAC is \$52,350. The total evaluated cost is \$52,350 + (.25 × \$52,350) or \$65,437.50

The minimum cost for the project with US products is \$82,120, a cost increase of 56%. In light of the foregoing, and under the authority of section 1605(b)(3) of Public Law No. 111–5 and the Re-delegation Order dated April 25, 2011, with respect to Recovery Act projects funded by EERE, on October 24, 2011, the Acting Assistant Secretary issued a determination of inapplicability (unreasonable cost waiver) of section 1605 of the American Reinvestment and Recovery Act of 2009 (Recovery Act Buy

American provisions) to the California Energy Commission, recipient of EECBG grant EE0000905, for the installation of a heating, ventilation, and air conditioning (HVAC) system at the at the City of La Cañada Flintridge City Hall building. This waiver applies only to this project.

This waiver determination was made pursuant to the delegation of authority by the Secretary of Energy to the Assistant Secretary for Energy Efficiency and Renewable Energy with respect to expenditures within the purview of his responsibility. Consequently, this waiver applies only to EERE projects carried out under the Recovery Act; and only to this project specifically, waiver requests, even for the same or similar items, will be handled individually, because individual factors apply to each project.

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

Issued in Washington, DC on September 12, 2012.

**David T. Danielson,**

*Assistant Secretary, Energy Efficiency and Renewable Energy, U.S. Department of Energy.*

**Editorial Note:** This document was received at the Office of the Federal Register August 7, 2013.

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**BILLING CODE 6450–01–P**

## DEPARTMENT OF ENERGY

### Office of Energy Efficiency and Renewable Energy

#### Nationwide Categorical Waivers Under the American Recovery and Reinvestment Act of 2009 (Recovery Act)

**AGENCY:** Office of Energy Efficiency and Renewable Energy, U.S. Department of Energy (DOE).

**ACTION:** Notice of Amended Limited Waivers.

**SUMMARY:** The U.S. Department of Energy (DOE) is hereby granting an Amended Waiver of section 1605 of the American Reinvestment and Recovery Act of 2009 (Recovery Act Buy American provisions) in EERE-funded projects limiting the waiver issued February 11, 2010 to plug in CFLs of 10 inches or less and fluorescent electronic ballasts not capable of dimming.

**DATES:** *Effective Date:* 01/31/2013.

**FOR FURTHER INFORMATION CONTACT:** Christine Platt-Patrick, Office of Energy Efficiency and Renewable Energy (EERE), (202) 586–7691, Department of Energy, 1000 Independence Avenue

SW., Mailstop EE–2K, Washington, DC 20585.

**SUPPLEMENTARY INFORMATION:** Under the authority of Recovery Act, Public Law 111–5, section 1605(b)(2), the head of a Federal department or agency may issue a “determination of inapplicability” (a waiver of the Buy American provision) if the iron, steel, or relevant manufactured good is not produced or manufactured in the United States in sufficient and reasonably available quantities and of a satisfactory quality (“nonavailability”). The authority of the Secretary of Energy to make all inapplicability determinations was re-delegated to the Assistant Secretary for Energy Efficiency and Renewable Energy (EERE), for EERE projects under the Recovery Act, in Redelegation Order No. 00–002.01F, dated October 31, 2012.

On February 11, 2010, The Assistant Secretary issued a nonavailability waiver for fluorescent electronic ballasts.

As with all waivers, the Assistant Secretary reserved the right to revisit and amend this determination based on any changes in the manufacturing landscape, such as the entry into the market of new domestic manufacturers. In this case, domestic manufacturers have retooled manufacturing lines and increased manufacturing capacity to the United States, reducing costs associated with producing dimmable fluorescent electronic ballasts and complete dimming systems including controls, decreasing the price and broadening the scope of domestically manufactured systems available for purchase.

The remaining items covered by the February 2010 Waiver (Plug in CFLs of 10 inches or less and fluorescent electronic ballasts not capable of dimming) continue to be covered by the February 11, 2010 waiver and remain subject to the specifications and conditions of that waiver.

In order for the withdrawn waivers to continue to apply substantial steps to commit funds for the purchase of the formerly waived items must have been made on or before March 31, 2013.

Substantial steps to commit funds would include, but are not limited to, (1) issuing a Request for Proposals (RFP) on or before March 31, 2013 (applicable only where the grantee accepts a proposal received under that RFP); (2) in the case of a sole source selection: placing an order for the goods on or before March 31, 2013; (3) commencing a bidding process on or before March 31, 2013; (4) in circumstances where the grantee solicited quotes without an RFP: the grantee purchases the goods based on a quote dated on or before March 31,

2013 and the order for the goods is placed on or before March 31, 2013; or (5) grantee has executed a contract or purchase agreement with a supplier to acquire affected goods on or before March 31, 2013.

EERE hereby provides notice that on January 31, 2013, an Amended Waiver of section 1605 of the American Reinvestment and Recovery Act of 2009 (Recovery Act Buy American provisions) was issued for EERE-funded projects utilizing dimmable florescent electronic ballasts.

This amendment modifies the nonavailability waiver issued on February 11, 2010 for florescent electronic ballasts. As a result of the amendment, the following items listed in the February 2010 waiver items remain waived: Plug in CFLs of 10 inches or less and fluorescent electronic ballasts not capable of dimming. This notice constitutes the detailed written justification required by Section 1605(c) for waivers based on a finding under subsection (b).

This waiver determination is pursuant to the delegation of authority by the Secretary of Energy to the Assistant Secretary for Energy Efficiency and Renewable Energy with respect to expenditures within the purview of his responsibility. Consequently, this waiver applies to all EERE projects carried out under the Recovery Act.

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

Issued in Washington, DC, on February 1, 2013.

**David T. Danielson,**

*Assistant Secretary, Energy Efficiency and Renewable Energy, U.S. Department of Energy.*

**Editorial Note:** This document was received at the Office of the Federal Register August 7, 2013.

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## DEPARTMENT OF ENERGY

### Office of Energy Efficiency and Renewable Energy

#### Nationwide Categorical Waivers Under the American Recovery and Reinvestment Act of 2009 (Recovery Act)

**AGENCY:** Office of Energy Efficiency and Renewable Energy, U.S. Department of Energy (DOE).

**ACTION:** Notice of Limited Waivers.

**SUMMARY:** The U.S. Department of Energy (DOE) is hereby granting a nationwide limited waiver of the Buy American requirements of section 1605

of the Recovery Act under the authority of Section 1605(b)(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), with respect to Recovery Act projects funded by EERE for (1) Energy-efficient impeller (N-impeller) to retrofit existing Flygt pumps, and (2) Expansion Module Assembly to repair existing Johnson Controls Lab and Hood Fume Interface with Phoenix Controls Hood (where utilization of an American made module assembly would require replacement of the existing system).

**DATES:** *Effective Date:* 07/18/2012.

**FOR FURTHER INFORMATION CONTACT:**

Christine Platt-Patrick, Office of Energy Efficiency and Renewable Energy (EERE), (202) 586–7691, Department of Energy, 1000 Independence Avenue SW., Mailstop EE–2K, Washington, DC 20585.

**SUPPLEMENTARY INFORMATION:** Under the authority of American Recovery and Reinvestment Act of 2009 (Recovery Act), Public Law 111–5, section 1605(b)(2), the head of a Federal department or agency may issue a “determination of inapplicability” (a waiver of the Buy American provision) if the iron, steel, or relevant manufactured good is not produced or manufactured in the United States in sufficient and reasonably available quantities and of a satisfactory quality (“nonavailability”). The authority of the Secretary of Energy to make all inapplicability determinations was re-delegated to the Assistant Secretary for Energy Efficiency and Renewable Energy (EERE), for EERE projects under the Recovery Act, in Redelegation Order No. 00–002.01E, dated April 25, 2011. Pursuant to this delegation the Assistant Secretary, EERE, has concluded that: (1) Energy-efficient impellers (N-impeller) to retrofit existing Flygt pumps; (2) Expansion module assemblies to repair existing Johnson Controls lab and hood fume interface with Phoenix Controls hood (where utilization of an American made module assembly would require replacement of the existing system); (3) magnetic ballasts for HID retrofits; and (4) direct line voltage, color-changing architectural LED flood lighting fixtures, color-changing architectural LED cove lighting products, white LED line voltage architectural cove lighting fixtures, exterior, LED color-changing direct view lighting fixtures, and multicolor DMX–512 LED wash and array lights for architectural lighting, are not produced or manufactured in the United States in sufficient and reasonably available quantities and of a

satisfactory quality. The above items, when used on eligible EERE Recovery Act-funded projects, qualify for the “nonavailability” waiver determination.

EERE has developed a robust process to ascertain in a systematic and expedient manner whether or not there is domestic manufacturing capacity for the items submitted for a waiver of the Recovery Act Buy American provision. This process involves a close collaboration with the United States Department of Commerce National Institute of Standards and Technology (NIST) Manufacturing Extension Partnership (MEP), in order to scour the domestic manufacturing landscape in search of producers before making any nonavailability determinations.

The MEP has 59 regional centers with substantial knowledge of, and connections to, the domestic manufacturing sector. MEP uses their regional centers to ‘scout’ for current or potential manufacturers of the product(s) submitted in a waiver request. In the course of this interagency collaboration, MEP has been able to find exact or partial matches for manufactured goods that EERE grantees had been unable to locate. As a result, in those cases, EERE was able to work with the grantees to procure American-made products rather than granting a waiver.

The EERE Buy American Coordinator worked with manufacturing stakeholders to scout for domestic manufacturing capacity or an equivalent product for each item contained in this waiver. EERE also conducted significant amounts of independent research to supplement these scouting efforts. EERE’s research efforts confirmed that the goods included in this waiver are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality.

The nonavailability determination is also informed by the inquiries and petitions to EERE from recipients of EERE Recovery Act funds, and from suppliers, distributors, retailers and trade associations—all stating that their individual efforts to locate domestic manufacturers for the items have been unsuccessful.

Specific technical information for the manufactured goods included in this non-availability determination is detailed below:

*Energy-efficient impeller (N-impeller) to retrofit existing Flygt pumps.* The impeller was specifically designed to fit and be compatible with the existing electric submersible pumps only available from the existing pump’s manufacturer. The components are a cast iron N-technology, self-cleaning