

Regulatory Commission and has been granted a Small Conduit Exemption from Licensing. The MWRA is receiving Massachusetts State Drinking Water Revolving funds, as well as a construction grant from the Massachusetts Technology Collaborative. Design plans and specifications have been completed and include the ARRA's Buy American terms. The estimated total cost of the proposed construction project is \$1.8M.

The MWRA is requesting a waiver for a foreign manufactured hydroelectric generator to generate electrical power from the available hydraulic potential energy in the MWRA's drinking water transmission system. It is estimated that the hydroelectric generator will account for approximately 15% of the entire project construction cost of \$1.8M. The MWRA has researched foreign and domestic manufacturers of hydroelectric generators and has determined that domestic manufacturers are not able to manufacture a hydroelectric turbine generator that meets the capacity requirements as specified for the proposed project. The waiver request has been submitted prior to the MWRA's bid solicitation. Any bid proposals are not expected to include any domestic manufacturers based on the research conducted and documentation provided by the MWRA.

The project specifications and other supporting documentation state that the hydroelectric generator must produce 200 kilowatts, 250 kVA of 3 phase electrical energy at 60 Hz from an available head at the turbine inlet of 70 to 75 feet and an average daily flow of 20 million gallons of water per day. The project design and specifications require that the hydraulic turbine and hydroelectric generator be installed within the confines of the facility's existing pressure reducing valve station vault/chamber.

An evaluation of all of the submitted documentation by EPA's technical review team supports and confirms the MWRA's claim that there are currently no domestic manufacturers that can provide a suitable hydroelectric generator to meet project specifications. The consulting engineer for the MWRA identified four domestic manufacturers in the United States. None of the four companies manufacture generators smaller than 500 kilowatts in size, with the project specifications requiring 200 kilowatts in size. The supporting information for this proposed project also includes contacts with hydro turbine manufacturers who work with generator manufacturers, internet research conducted at sales websites, telephone calls, and e-mail

correspondence with generator manufacturers and visits to their websites. An independent review of the submitted documentation by EPA's national contractor confirmed this evidence.

The supporting documentation (*i.e.* results of research and communications with manufacturers of hydroelectric turbine generators) and independent research and communication with selected manufacturers of hydroelectric turbine generator technology conducted by EPA's national contractor demonstrate that U.S. manufacturers do not currently produce hydroelectric turbine generators capable of generating the requisite power output and having the physical dimensions required for installation in the utility's existing pressure reducing station valve vault/chamber located at the Loring Road facility in Weston, MA. In addition, the evaluation of the supporting documentation also demonstrates that foreign manufactured hydroelectric generators are available and will be able to meet the proposed project design and specifications.

Furthermore, the purpose of the ARRA is to stimulate economic recovery by funding current infrastructure construction, not to delay or curtail entirely projects that are "shovel ready" by requiring potential SRF eligible recipients, such as the MWRA, to revise their design standards and specifications. The imposition of ARRA Buy American requirements in this case would not be workable within the absolute constraints and dimensions of the project within the existing facility. To curtail entirely this construction would directly conflict with a fundamental economic purpose of ARRA, which is to create or retain jobs.

The April 28, 2009 EPA HQ Memorandum, "Implementation of Buy American provisions of Public Law 111-5, the 'American Recovery and Reinvestment Act of 2009' " ("Memorandum"), 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 same Memorandum defines "satisfactory quality" as "the quality of steel, iron or manufactured good specified in the project plans and designs."

The Municipal Assistance Unit (CMU) has reviewed this waiver request and has determined that the supporting documentation provided by the MWRA establishes both a proper basis to specify a particular manufactured good,

and that the domestic manufactured good that is currently available does not meet the design specifications for the proposed project. The information provided is sufficient to meet the following criteria listed under Section 1605(b) of the ARRA and in the April 28, 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 March 31, 2009 Delegation of Authority Memorandum provided Regional Administrators with the temporary authority to issue exceptions to Section 1605 of the 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 MWRA is hereby granted a waiver from the Buy American requirements of Section 1605(a) of Public Law 111-5. This waiver permits use of ARRA funds for the purchase of a non-domestic manufactured hydroelectric generator documented in MWRA's waiver request submittal dated October 23, 2009. This supplementary information constitutes the detailed written justification required by Section 1605(c) for waivers based on a finding under subsection (b).

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

Dated: December 16, 2009.

**H. Curtis Spalding,**

*Regional Administrator, EPA Region 1—New England.*

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## **ENVIRONMENTAL PROTECTION AGENCY**

[FRL-9098-1]

### **Notice of a Regional Project Waiver of Section 1605 (Buy American) of the American Recovery and Reinvestment Act of 2009 (ARRA) to the North Conway, NH Water Precinct**

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

**ACTION:** Notice.

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**SUMMARY:** The EPA is hereby granting a waiver of the Buy America 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 North Conway, New Hampshire Water Precinct (NCWP) for the purchase of two SB615 Series Boilers manufactured by Bosch Thermotechnology of Germany. This is a project specific waiver and only applies to the use of the specified product for the ARRA project being proposed. Any other ARRA recipient that wishes to use the same product must apply for a separate waiver based on project specific circumstances. Based upon information submitted by the NCWP and its consulting engineer, it has been determined that there are currently no domestic manufacturers available to meet its proposed project design and performance specifications. The Regional Administrator is making this determination based on the review and recommendations of the Municipal Assistance Unit. The Assistant Administrator of the 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 two foreign manufactured high efficiency boilers by the NCWP, as documented in its November 4, 2009 request.

**DATES:** *Effective Date:* December 16, 2009.

**FOR FURTHER INFORMATION CONTACT:**

David Chin, Environmental Engineer, (617) 918-1764, or Katie Connors, Environmental Engineer, (617) 918-1658, Municipal Assistance Unit (CMU), Office of Ecosystem Protection (OEP), U.S. EPA, 5 Post Office Square, Suite 100, Boston, MA 02109-3912.

**SUPPLEMENTARY INFORMATION:**

In accordance with ARRA Section 1605(c), the EPA hereby provides notice that it is granting a project waiver of the requirements of Section 1605(b)(2) of Public Law 111-5, Buy American requirements, to the North Conway, NH Water Precinct (NCWP) for the purchase of two SB615 Series Boilers manufactured by Bosch Thermotechnology of Germany. The boiler is manufactured under the brand name of Buderus, whose headquarters in the United States is located in Londonderry, NH. By incorporating high efficiency boilers into the design of the facility's proposed alternative energy project, it is estimated that 2,750 gallons of oil will be saved per year to heat the various buildings at the wastewater treatment facility. The estimated cost for each boiler is \$35,000.

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 a public works project

unless all of the iron, steel, and manufactured goods used in the project is produced in the United States, or unless a waiver is provided to the recipient by the head of the appropriate agency, here the EPA. A waiver may be provided if EPA determines that (1) applying these requirements would be inconsistent with the 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 NCWP is proposing a two phase Alternative Energy project. Phase I involves the installation of solar panels that will augment the power supplied to the wastewater treatment plant and decrease the draw on the electrical grid. Phase II is a \$1M construction project that will include the installation of geothermal wells that will supply groundwater to the facility's HVAC system. The constant temperature water will reduce the energy needed to heat and cool the various buildings of the entire wastewater treatment facility. In order to maximize the energy conserving potential, the NCWP has determined that it will also install new high efficiency boilers as part of the Phase II project. The existing boilers at the wastewater treatment facility are 14 years old, one of which is cracked, and several boiler plate sections need to be replaced. These boilers have an estimated rated 84.8% combustion efficiency and 83.6% thermal efficiency. The NCWP is proposing to replace these existing boilers and achieve a minimum 5% increase in efficiency given that the technology currently exists to provide this energy savings.

The design specifications for the proposed project require the following: A condensing oil fired boiler; rated combustion and thermal efficiencies exceeding 90%; performance of the boiler certified by the Air Conditioning, Heating, and Refrigeration Institute; and capacity in the range of 1.6 to 2.0 million BTU/hour.

The April 28, 2009 EPA HQ Memorandum, "Implementation of Buy American provisions of Public Law 111-5, the 'American Recovery and Reinvestment Act of 2009' " ("Memorandum"), 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 same Memorandum defines "satisfactory quality" as "the quality of steel, iron or manufactured good specified in the project plans and designs."

Based on our review, it has been determined that the supporting documentation provided by the NCWP establishes both a proper basis to specify a particular manufactured good, and that no domestic manufactured good is currently available to meet the design and performance specifications for the proposed project. An evaluation of all of the submitted documentation by EPA's technical review team confirms the NCWP's claim that there are currently no domestic manufacturers of commercial grade condensing oil fired boilers with rated combustion and thermal efficiencies greater than 90%. The foreign manufactured boiler that has been identified has a rated combustion efficiency of 95.2% and a thermal efficiency of 92.6%. The information provided is sufficient to meet the criteria necessary for a waiver of the Buy American provision listed under Section 1605(b)(2) of the ARRA and in the "American Recovery and Reinvestment Act of 2009" April 28, 2009 Memorandum: Iron, Steel, and manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality.

Furthermore, the purpose of the ARRA is to stimulate economic recovery by funding current infrastructure construction, not to delay projects that are "shovel ready" by requiring potential SRF eligible recipients, such as the NCWP, to revise their design standards and specifications. The imposition of ARRA Buy American requirements in this case would result in unreasonable delay for this project. To delay this construction would directly conflict with a fundamental economic purpose of ARRA, which is to create or retain jobs.

The March 31, 2009 Delegation of Authority Memorandum provided Regional Administrators with the temporary authority to issue exceptions to Section 1605 of the 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 NCWP is hereby granted a waiver from the Buy American requirements of Section 1605(a) of Public Law 111-5. This waiver permits use of ARRA funds

for the purchase of two foreign manufactured high efficiency boilers as noted in the NCWP's waiver request submittal dated November 4, 2009. This supplementary information constitutes the detailed written justification required by Section 1605(c) for waivers based on a finding under subsection (b).

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

Dated: December 16, 2009.

**H. Curtis Spalding,**

*Regional Administrator, EPA Region 1—New England.*

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**FEDERAL COMMUNICATIONS COMMISSION.**

**Notice of Public Information Collection Being Reviewed by the Federal Communications Commission, Comments Requested**

12/22/2009.

**SUMMARY:** The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, 44 U.S.C. 3501-3520. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology and (e) ways to further reduce the information burden for small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the

Paperwork Reduction Act (PRA) that does not display a valid control number.

**DATES:** Persons wishing to comment on this information collection should submit comments by March 1, 2010. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

**ADDRESSES:** Direct all PRA comments to Nicholas A. Fraser, Office of Management and Budget (OMB), via fax at (202) 395-5167, or via the Internet at Nicholas\_A.Fraser@omb.eop.gov and to Cathy Williams, Federal Communications Commission (FCC), 445 12th Street, SW, Washington, DC 20554. To submit your comments by e-mail send them to: PRA@fcc.gov.

**FOR FURTHER INFORMATION CONTACT:** For additional information about the information collection send an e-mail to PRA@fcc.gov or contact Cathy Williams on (202) 418-2918.

**SUPPLEMENTARY INFORMATION:**

OMB Control Number: 3060-0748.

Title: Section 64.104, 64.1509, 64.1510, Pay-Per-Call and Other Information Services.

Form Number: Not Applicable.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 5,125 respondents; 5,175 responses.

Estimated Time per Response: 2 to 50 hours.

Frequency of Response: Annual and on occasion reporting requirements; Third party disclosure; Recordkeeping requirement.

Total Annual Burden: 47,750.

Total Annual Cost: \$0.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority(s) for the information collection are found at 47 U.S.C. 228(c)(7) - (10); Pub. L. No. 192-556, 106 stat. 4181 (1992), codified at 47 U.S.C. 228 (The Telephone and Dispute Resolution Act of 1992).

Nature and Extent of Confidentiality: An assurance of confidentiality is not offered because this information collection does not require the collection of personally identifiable information from individuals.

Privacy Impact Assessment: No impact(s).

Needs and Uses: 47 CFR 64.1504 of the Commission's rules incorporates the requirements of Sections 228(c)(7)-(10) of the Communications Act restricting the manner in which toll-free numbers

may be used to charge telephone subscribers for information services. Common carriers may not charge a calling party for information conveyed on a toll-free number call, unless the calling party: (1) has executed a written agreement that specifies the material terms and conditions under which the information is provided, or (2) pays for the information by means of a prepaid account, credit, debit, charge, or calling card and the information service provider gives the calling party an introductory message disclosing the cost and other terms and conditions for the service. The disclosure requirements are intended to ensure that consumers know when charges will be levied for calls to toll-free numbers and are able to obtain information necessary to make informed choices about whether to purchase toll-free information services.

47 CFR 64.1509 of the Commission rules incorporates the requirements of 47 U.S.C. (c)(2) and 228 (d)(2)-(3) of the Communications Act. Common carriers that assign telephone numbers to pay-per-call services must disclose to all interested parties, upon request, a list of all assigned pay-per-call numbers. For each assigned number, carriers must also make available: (1) a description of the pay-per-call services; (2) the total cost per minute or other fees associated with the service; and (3) the service provider's name, business address, and telephone number. In addition, carriers handling pay-per-call services must establish a toll-free number that consumers may call to receive information about pay-per-call services. Finally, the Commission requires carriers to provide statements of pay-per-call rights and responsibilities to new telephone subscribers at the time service is established and, although not required by statute, to all subscribers annually.

Under 47 CFR 64.1510 of the Commission's rules, telephone bills containing charges for interstate pay-per-call and other information services must include information detailing consumers' rights and responsibilities with respect to these charges. Specifically, telephone bills carrying pay-per-call charges must include a consumer notification stating that: (1) the charges are for non-communication services; (2) local and long distance telephone services may not be disconnected for failure to pay per-call charges; (3) pay-per-call (900 number) blocking is available upon request; and (4) access to pay-per-call services may be involuntarily blocked for failure to pay per-call charges. In addition, each call billed must show the type of services, the amount of the charge, and