

information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

*Respondents/Affected Entities:* Local governments.

*Estimated Number of Respondents:* 60.

*Frequency of Response:* On occasion.

*Estimated Total Annual Hour Burden:* 540.

*Estimated Total Annual Cost:* \$9,990, includes no annualized capital or O&M costs.

*Changes in the Estimates:* There is an increase of 135 hours in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens. This is due to expected growth in the number of respondents applying for reimbursement.

Dated: October 19, 2011.

**John Moses,**

*Acting Director, Collection Strategies Division.*

[FR Doc. 2011-27597 Filed 10-24-11; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

[FRL-9482-3]

### Notice of a Project Waiver of Section 1605 (Buy American Requirement) of the American Recovery and Reinvestment Act of 2009 (ARRA) to the Borough of Ocean Gate, NJ

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

**ACTION:** Notice.

**SUMMARY:** The EPA 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 Borough of Ocean Gate, New Jersey (Borough), for the purchase of a foreign manufactured 50 kW wind turbine generator that meets the Borough's design and performance specifications. 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

project that may wish to use the same product must apply for a separate waiver based on project specific circumstances. Based upon information submitted by the Borough and its consulting engineer, EPA has concluded that there are currently no domestic manufactured 50 kW wind turbines available in sufficient and reasonable quantity and of a satisfactory quality to meet the Borough's project design and performance specifications, and that a waiver is justified. The Regional Administrator is making this determination based on the review and recommendations of the State Revolving Fund Program Team. The Assistant Administrator of the Office of Administration and Resources Management has concurred on this decision to make an exception to Section 1605(a) of ARRA. This action permits the purchase of a foreign manufactured 50 kW wind turbine generator by the Borough, as specified in its June 6, 2011 waiver request.

**DATES:** *Effective Date:* August 8, 2011.

#### FOR FURTHER INFORMATION CONTACT:

Alicia Suárez, Environmental Engineer, (212) 637-3851, State Revolving Fund Program Team, Division of Environmental Planning and Protection, U.S. EPA, 290 Broadway, New York, NY 10007.

#### SUPPLEMENTARY INFORMATION:

In accordance with ARRA Sections 1605(c) and 1605(b) (2), the 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 Borough for the purchase of a 50 kW wind turbine generator, manufactured by Atlantic Orient Corporation, that meets the Borough's design and performance specifications. EPA has evaluated the Borough's basis for the procurement of a foreign made wind turbine generator. Based upon information submitted by the Borough and its consulting engineer, EPA has concluded that there are currently no domestic manufactured 50 kW wind turbines available in sufficient and reasonable quantity and of a satisfactory quality to meet the Borough's project design and performance specifications.

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 are 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 under Section 1605(b) of ARRA 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.

EPA has also evaluated the Borough's request to determine if its submission is considered late or if it could be considered timely, as per the Office of Management and Budget (OMB) regulations at 2 CFR 176.120. EPA will generally regard waiver requests with respect to components that were specified in the bid solicitation or in a general/primary construction contract as "late" if submitted after the contract date. However, EPA could also determine that a request be evaluated as timely, though made after the date that the contract was signed, if the need for a waiver was not reasonably foreseeable. If the need for a waiver is reasonably foreseeable, then EPA could still apply discretion in these late cases as per the OMB regulations, which says "the award official *may* deny the request." For those waiver requests that do not have a reasonably unforeseeable basis for lateness, but for which the waiver basis is valid and there is no apparent gain by the ARRA recipient or loss on behalf of the government, then EPA will still consider granting a waiver.

In this case, the contract for the construction and erection of a 50 kW wind turbine was awarded in December 2009. At the time of award the contractor was proposing the installation of an Entegriy 50 kW wind turbine. The contractor's bid was based on using the Entegriy unit. Shortly after the contract was awarded it was discovered that Entegriy Wind Systems had filed for bankruptcy and was possibly going into receivership. The bankruptcy proceedings carried on for about a year. The issue was further complicated because the matter was in the Canadian courts. Due to the uncertainty of which turbine would actually be installed the Borough and contractor waited until that decision was finalized. The contractor was given the start work order in November 2010. At that time the wind system to be used was confirmed and the necessary waiver was developed by the Borough. There is no indication that the Borough failed to request a waiver in order to avoid the requirements of ARRA, particularly

since there are no domestically manufactured products available that meet the project specifications. The Borough's subsequent research indicated that no other domestic manufactured 50 kW wind turbine generators that met project specifications were available. Accordingly, EPA will evaluate the request as a timely request.

The Borough is completing a wind power project to supply power to its water treatment plant. The project is funded in part by the New Jersey Clean Energy Initiative. To qualify for the state's rebate, the wind turbine generator cannot produce more power than the plant's power consumption for the last year. Based on that requirement, a 50 kW wind turbine generator was specified.

The Borough is requesting a waiver for the purchase of a 50 kW wind turbine generator, manufactured by Atlantic Orient Corporation, because according to the Borough, there are no domestic manufacturers that produce a wind turbine generator that meets the project design and performance specifications.

Based on the technical evaluation of the Borough's waiver request and supporting documentation conducted by EPA's national contractor, the Borough's claim that no domestic manufacturer can produce a 50 kW wind turbine generator that meets the project specifications is supported by the available evidence. In addition, the evaluation of the supporting documentation indicates that Atlantic Orient Corporation, who manufactures its wind turbine generators in Canada, can provide a 50 kW wind turbine generator that can meet project design and performance specifications.

The purpose of the ARRA is to stimulate economic recovery in part by funding current infrastructure construction, not to delay projects that are already "shovel ready" by requiring entities, such as the Borough, to revise their design standards and specifications 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 potentially the cancellation of this project as sited. The delay or cancellation of this construction would directly conflict with the fundamental economic purpose of ARRA, which is to create or retain jobs.

The April 28, 2009, EPA Headquarters 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 the 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," and *satisfactory quality* as "the quality of iron, steel, or the relevant manufactured good as specified in the project plans and designs."

The Region 2 State Revolving Fund Program Team has reviewed this waiver request and has determined that the supporting documentation provided by the Borough establishes both a proper basis to specify the particular good required and that the manufactured good is not available from a producer in the United States to meet the design specifications for the proposed project. The information provided is sufficient to meet the criteria listed under Section 1605(b) of ARRA, OMB regulations at 2 CFR 176.60-176.170, and in the EPA Headquarters 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 basis for this project waiver is the authorization provided in 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 Borough's technical specifications, a waiver from the Buy American requirement is justified.

The Administrator's 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 Authority is hereby granted a waiver from the Buy American requirements of Section 1605(a) of Public Law 111-5 for the purchase of a 50 kW wind turbine generator, as specified in its June 6, 2011 waiver request. 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: August 8, 2011.

**Judith A. Enck,**

*Regional Administrator, Environmental Protection Agency, Region 2.*

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## **FEDERAL COMMUNICATIONS COMMISSION**

### **Information Collection(s) Being Reviewed by the Federal Communications Commission Comments Requested**

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice and request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork burden and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501-3520), the Federal Communications Commission invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s). 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; (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 OMB 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 OMB control number.

**DATES:** Written Paperwork Reduction Act (PRA) comments should be submitted on or before December 27, 2011. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

**ADDRESSES:** Submit your PRA comments to Nicholas A. Fraser, Office of