

commercial and industrial (ICI) boilers, vapor recovery at gas stations, large above ground storage tanks, seaports, aftermarket catalysts, lightering, and non-road idling.

DATES: The meeting will be held on November 10, 2010 starting at 9 a.m. and ending at 4 p.m.

Location: Sheraton Boston, 39 Dalton Street, Boston, Massachusetts 02199; (617) 236-2000 or (888) 627-7054.

FOR FURTHER INFORMATION CONTACT: For documents and press inquiries contact: Ozone Transport Commission, 444 North Capitol Street, NW., Suite 638, Washington, DC 20001; (202) 508-3840; e-mail: ozone@otcair.org; Web site: <http://www.otcair.org>.

SUPPLEMENTARY INFORMATION: The Clean Air Act Amendments of 1990 contain at Section 184 provisions for the Control of Interstate Ozone Air Pollution. Section 184(a) establishes an Ozone Transport Region (OTR) comprised of the States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, parts of Virginia and the District of Columbia. The purpose of the OTR is to deal with ground-level ozone formation, transport, and control within the OTR.

Type of meeting: Open.

Agenda: Copies of the final agenda will be available from the OTC office (202) 508-3840; by e-mail: ozone@otcair.org or via the OTC Web site at <http://www.otcair.org>.

Dated: September 7, 2010.

W.C. Early,

Acting Regional Administrator, Region III.

[FR Doc. 2010-23994 Filed 9-23-10; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

[FRL-9205-4]

Notice of a Regional Project Waiver of Section 1605 (Buy American) of the American Recovery and Reinvestment Act of 2009 (ARRA) to the City of Lewiston, ME and the Auburn, Maine Water District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA is hereby granting a 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 City of Lewiston, Maine and the Auburn, Maine Water District ("Auburn-Lewiston") for the purchase of thirteen separate types of ductile iron pipe fittings (with various quantities for each individual fitting configuration totaling 33 fittings) that are foreign manufactured as part of an upgrade project at the Auburn-Lewiston Water Treatment Facility. 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 Auburn-Lewiston, it has been determined that there are currently no domestically manufactured pipe fittings available to meet the Auburn-Lewiston's project construction schedule. 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 foreign manufactured pipe fittings by Auburn-Lewiston, as specified in its July 28, 2010 request.

DATES: *Effective Date:* September 15, 2010.

FOR FURTHER INFORMATION CONTACT:

Katie Connors, Environmental Engineer, (617) 918-1658, or David Chin, Environmental Engineer, (617) 918-1764, 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(a) of Public Law 111-5, Buy American requirements, to the City of Lewiston, Maine and the Auburn, Maine Water District for the purchase of foreign manufactured pipe fittings as part of its water treatment facility upgrade project. The specific ductile iron fittings are not available from a domestic manufacturer to meet the project construction schedule. 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.

Consistent with the direction of the OMB Guidance 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, in this case EPA has determined that the Auburn-Lewiston's request, though made after the date that the contract was signed on March 11, 2010, can be evaluated as timely because the supplier informed the subcontractor of the recipient on July 19, 2010 that the domestic manufacturer would not be able to deliver the required type and number of fittings to meet the project schedule/delivery date. The need for a waiver was not determined until after the subcontractor had been informed of the extended delivery delay and further research indicated that there were no domestic manufacturers that could provide the necessary pipe fittings to meet the required project delivery schedule. The recipient could not reasonably foresee the need for such a determination until it was informed that the specific domestic pipe fittings would not be available at the originally scheduled time frame. Accordingly, EPA will evaluate the request as if it were timely.

Auburn-Lewiston is constructing a new Ultraviolet (UV) disinfection treatment facility in order to comply with the Long Term 2 Enhanced Surface Water Treatment Rule requirements of the Safe Drinking Water Act, and part of the work involves the installation of new pipe and pipe fittings. According to information provided by Auburn-Lewiston, there are 13 different fitting types of various sizes and connection types, resulting in a total of 33 individual fittings. The fittings are also required to meet the following specifications: (1) Manufactured to conform with ANSI/AWWA A21.51/C151; (2) inside bituminous coating; and (3) outside primer of TNEMEC Omnithane Series 1.

According to Auburn-Lewiston, the subcontract to furnish and install the ductile iron pipe and pipe fittings was awarded on March 11, 2010 and none of the subcontractors raised any concerns about getting the pipe fittings delivered on time. A purchase order for the ductile iron piping and fittings was placed on April 29, 2010 with an agreed upon shipping date of July 19, 2010 to meet the project schedule.

On July 19, 2010, the supplier received notification from the domestic foundries manufacturing the subject fittings that due to production order backlog, delivery of standard fittings would be delayed at least 4 weeks and delivery of the special, non-standard fittings (long radius bends and large diameter tees) could be delayed at least 8 weeks. The project procurement manager reported that the estimated 4 and 8 week delays were not guaranteed and that the delays could be longer. The possibility of delays was confirmed by EPA's national contractor in conversation with the manufacturer.

The project schedule called for delivery and installation of the ductile iron pipe fittings between July 16, 2010 and August 12, 2010, so the testing of the lines could be initiated prior to September 1, 2010. In addition, the ultraviolet disinfection treatment system testing completion and operator training milestone date is December 8, 2010, with an overall project completion and transfer of facility to the owner date of January 5, 2011. If the delivery of the pipe fittings is delayed until mid-September of 2010, it is estimated that final completion date will be pushed back to at least several weeks. There also has been no guarantee given by the manufacturer that the fittings will be delivered by mid-September, the revised delivery date. According to Auburn-Lewiston, delivery times for certain items are being quoted as long as six months for existing orders.

The project procurement manager solicited quotations and committed delivery times for non-domestic manufactured ductile iron fittings from two local suppliers. Based on the information that was obtained, the non-domestic manufactured ductile iron pipe fittings necessary for the project, with the exception of one 24" x 4" tee, could be delivered within a time frame to meet the project schedule. The work could be coordinated to accommodate the later delivery of the 24" x 4" tee and preserve the December 8, 2010 overall system testing and operator training milestone date, as well as the January 5, 2011 overall project completion date.

Based on the review conducted by EPA's national contractor, Auburn-

Lewiston's claim that the specific ductile iron fittings are not available from a domestic manufacturer to meet project schedule milestones is supported by the available evidence. At least eight additional potential domestic manufacturers of ductile iron pipe fittings were contacted and it was determined that none would be able to meet the required project delivery schedule.

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 Auburn-Lewiston to either revise their design standards and specifications, or in this situation significantly alter its construction schedule. The imposition of ARRA Buy American requirements in this case would result in an 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 April 28, 2009 EPA HQ Memorandum, "Implementation of Buy American provisions of Pub. L. 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 Auburn-Lewiston establishes both a proper basis to specify a particular manufactured good, and that the domestic manufactured good is currently not available to meet the construction schedule 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 City of Lewiston, Maine and the Auburn, Maine Water District are 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 non-domestic manufactured pipe fittings documented in Auburn-Lewiston's waiver request submittal dated July 28, 2010. 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: September 15, 2010.

Ira W. Leighton,

Acting Regional Administrator, EPA Region 1—New England.

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ENVIRONMENTAL PROTECTION AGENCY

[FRL-9206-3]

Notice of a Regional Project Waiver of Section 1605 (Buy American) of the American Recovery and Reinvestment Act of 2009 (ARRA) to the Town of Bristol, RI

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA is hereby granting a waiver of the Buy American requirements of ARRA Section 1605 under the authority of Section 1605(b)(1) [inconsistent with the public interest] to the Town of Bristol, Rhode Island (Town) for the utilization and installation of two influent and two effluent sluice gates for the facility's two final clarifiers as part of a larger overall wastewater treatment plant upgrade project. 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. The Town had been assured by the manufacturer that the sluice gates would be made in a facility in Massachusetts. However, the manufacturer informed the Town of Bristol in writing on July 8, 2010 that