



This document is scheduled to be published in the Federal Register on 11/18/2011 and available online at <http://federalregister.gov/a/2011-29908>, and on FDsys.gov

Billing Code 4210-67
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5374-N-35]

Buy American Exceptions under the American Recovery and Reinvestment Act of 2009

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: In accordance with the American Recovery and Reinvestment Act of 2009 (Public Law 111-05, approved February 17, 2009) (Recovery Act), and implementing guidance of the Office of Management and Budget (OMB), this notice advises that certain exceptions to the Buy American requirement of the Recovery Act have been determined applicable for work using Capital Fund Recovery Formula and Competition (CFRFC) grant funds. Specifically, exceptions were granted to the Philadelphia Housing Authority for the purchase and installation of a single zone, ductless split Heating, Ventilation and Air Conditioning (HVAC) system for the Plymouth Hall Apartments project, and to the Chattanooga Housing Authority for the purchase and installation of linoleum flooring for its Fairmount Avenue Townhomes project.

FOR FURTHER INFORMATION CONTACT: Donald J. LaVoy, Deputy Assistant Secretary for Office of Field Operations, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street, SW., Room 4112, Washington, DC, 20410-4000, telephone number 202-402-8500 (this is not a toll-free number); or Dominique G. Blom, Deputy Assistant Secretary for Public Housing Investments, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street, SW., Room 4130, Washington, DC, 20410-4000, telephone number 202-402-8500 (this is not a toll-free number). Persons with hearing- or speech-impairments may access this number through TTY by calling the toll-free Federal Information Relay Service at 800-877-8339.

SUPPLEMENTARY INFORMATION: Section 1605(a) of the Recovery Act provides that none of the funds appropriated or made available by the Recovery Act may be used for a project 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. Section 1605(b) provides that the Buy American requirement shall not apply in any case or category in which the head of a Federal department or agency finds that: (1) Applying the Buy American requirement would be inconsistent with the public interest; (2) iron, steel, and the relevant manufactured goods are not produced in the U.S. in sufficient and reasonably available quantities or of satisfactory quality, or (3) inclusion of iron, steel, and manufactured goods will increase the cost of the overall project by more than 25 percent. Section 1605(c) provides that if the head of a Federal department or agency makes a determination pursuant to section 1605(b), the head of the department or agency shall publish a detailed written justification in the Federal Register.

In accordance with section 1605(c) of the Recovery Act and OMB's implementing guidance published on April 23, 2009 (74 FR 18449), this notice advises the public that, on October 20, 2011, the following exceptions were granted:

1. Philadelphia Housing Authority. Upon request of the Philadelphia Housing Authority, HUD granted an exception to applicability of the Buy American requirements with respect to work, using CFRFC grant funds, in connection with the Plymouth Hall Apartments project. The exception was granted by HUD on the basis that the relevant manufactured goods (split HVAC systems) are not produced in the U.S. in sufficient and reasonably available quantities or of satisfactory quality.

2. Chattanooga Housing Authority. Upon request of the Chattanooga Housing Authority, HUD granted an exception to applicability of the Buy American requirements with respect to work, using CFRFC grant funds, in connection with its Fairmount Avenue Townhomes project. The exception was granted by HUD on the basis that the relevant

manufactured goods (linoleum flooring) are not produced in the U.S. in sufficient and reasonably available quantities or of satisfactory quality.

Dated: November 8, 2011

Sandra B. Henriquez
Assistant Secretary for Public
and Indian Housing

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[FR Doc. 2011-29908 Filed 11/17/2011 at 8:45 am; Publication Date: 11/18/2011]