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DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

[Docket Number: 120216139-2138-01**]**

Buy American Exception Under the American Recovery and Reinvestment Act of 2009

AGENCY: National Institute of Standards and Technology, U.S. Department of Commerce.

SUMMARY: The Department of Commerce, National Institute of Standards and Technology is providing notice of a determination of an exception to the Buy American Provisions of the American Recovery and Reinvestment Act of 2009 (ARRA or Recovery Act), for inverters necessary for the construction of a solar array system at NIST's WWVH radio station in Kauai, HI.

FOR FURTHER INFORMATION CONTACT: Jason Gerloff, Contracting Officer, Acquisition Management Division, 303-497-6320, National Institute of Standards and Technology, 325 Broadway, Boulder, CO 80305.

SUPPLEMENTARY INFORMATION: Section 1605 of the Recovery Act (Pub. L. 111-5) prohibits use of recovery funds "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." However, section 1605(b)(2) allows the head of a Federal department or agency to issue a "determination of nonavailability" if the iron, steel, or manufactured good is not produced or manufactured in the United States in sufficient and reasonably available quantities and of a satisfactory quality. Pursuant to section 1605(b)(2), and a delegation of authority by the Secretary of Commerce, the NIST Director has determined that the required inverters were not manufactured in the United States.

In May 2010, NIST awarded a Recovery Act contract in the amount of $1,415,000.00 to Adon Construction for the construction of a 120kw photovoltaic solar array system to be built in eight 15kw sub-arrays at NIST's WWVH radio station in Kauai, HI. The objective of the solar array project is to produce power for the radio station and feed electricity back to the local grid. By doing this, the NIST radio station will be able to cut its utility costs and show a cost savings for future years on electricity.

The contract specifications required that all exterior photovoltaic equipment be in stainless steel or PVC enclosures that carried a minimum National Electrical Manufacturers Association (NEMA) 3R rating. An inverter is an essential piece of electrical equipment that converts DC electrical power to AC electrical power; without the inverters, the solar array could not be used for site operations. In July of 2010, the contractor proposed using three 5kw, 208V AC, single phase inverters inside of NEMA 3R, 6060 aluminum enclosures for each 15kw sub-array. The

contractor notified NIST that its research indicated there were no American-made products that met the project specifications. NIST completed a review of the contractor's findings and concurred that neither the 5kw nor 15kw inverters in stainless steel, PVC, or aluminum 6060 enclosures were produced or manufactured in the U.S. in sufficient and reasonably available quantities of a satisfactory quality in July 2010. NIST also determined that the aluminum enclosures were an acceptable alternative to the stainless steel or PVC materials originally specified because they would be able to withstand the rigors of outdoor use in a tropical climate.

Based on NIST and the contractor's review of the market place and various vendors' product availability, NIST determined there were no inverters manufactured in the United States that met the contract specifications or NIST's requirements.

Authority: Pub. L. 111-5, section 1605.

Dated: March 16, 2012

Willie E. May
Associate Director for Laboratory Programs

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