

Dated: February 2, 2010.

**John Moses,**

*Director, Collection Strategies Division.*

[FR Doc. 2010-2663 Filed 2-5-10; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

[FRL-9111-3]

### Notice of Open Meeting of the Environmental Financial Advisory Board (EFAB)

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

**ACTION:** Notice.

**SUMMARY:** The United States Environmental Protection Agency's (EPA) Environmental Financial Advisory Board (EFAB) will hold a full board meeting on March 16-17, 2010. EFAB is an EPA advisory committee chartered under the Federal Advisory Committee Act (FACA) to provide advice and recommendations to EPA on creative approaches to funding environmental programs, projects, and activities.

The purpose of the meeting is to hear from informed speakers on environmental finance issues, proposed legislation, Agency priorities and to discuss progress with work projects under EFAB's current Strategic Action Agenda.

Environmental Finance topics expected to be discussed include: Financial Assurance Mechanisms (Commercial Insurance & Cost Estimation); Financial Assurance and CO<sub>2</sub> Underground Injection Control/Carbon Capture and Sequestration; Water Loss Reduction; Innovative Financing Tools, and State Revolving Fund Investment Options.

The meeting is open to the public, however, seating is limited. All members of the public who wish to attend the meeting must register in advance, no later than Monday, March 8, 2010.

**DATES:** Full Board Meeting is scheduled for Tuesday, March 16, 2010 from 1:30 p.m.-5 p.m. and Wednesday, March 17, 2010 from 9 a.m.-5 p.m.:

**ADDRESSES:** Omni Shoreham Hotel, 2500 Calvert Street, NW., Washington, DC 20008.

Registration and Information Contact:

To register for this meeting or get further information please contact Sandra Keys, U.S. EPA, at (202) 564-4999 or [keys.sandra@epa.gov](mailto:keys.sandra@epa.gov). For information on access or services for individuals with disabilities, please

contact Sandra Keys. To request accommodations of a disability, contact Sandra Keys, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: February 1, 2010.

**Joshua Baylson,**

*Associate Chief Financial Officer.*

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## ENVIRONMENTAL PROTECTION AGENCY

[FRL-9111-4]

### Notice of a Project Waiver of Section 1605 (Buy American Requirement) of the American Recovery and Reinvestment Act of 2009 (ARRA) to the Auburn, Indiana Department of Water Pollution Control (Auburn)

**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 of a satisfactory quality] to Auburn for the purchase of a Hydrosel model HS40 flushing gate system. This is a project-specific waiver and only applies to the use of the specified product for the ARRA funded 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. These flushing gates, which are supplied by Gabriel Novac & Associates Inc, are manufactured in Canada, and meet Auburn's performance specifications and requirements. The Acting Regional Administrator is making this determination based on the review and recommendations of EPA Region 5's Water Division. Auburn has provided sufficient documentation to support its request. 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 a flushing gate system for Auburn's "Long Term Control Plan Store-Treat Facility Project" that may otherwise be prohibited under Section 1605(a) of the ARRA.

**DATES:** *Effective Date:* December 10, 2009

**FOR FURTHER INFORMATION CONTACT:** Julie Henning, SRF Financial Analyst (312)

886-4882, or Puja Lakhani, Regional Counsel, (312) 353-3190, U.S. EPA Region 5, 77 W. Jackson Blvd., Chicago, IL 60613.

**SUPPLEMENTARY INFORMATION:** In accordance with ARRA Section 1605(c) and pursuant to Section 1605(b)(2) of Public Law 111-5, Buy American requirements, EPA hereby provides notice that it is granting a project waiver to Auburn for the acquisition of a flushing gate system which is manufactured in Canada. The manufacturer is Gabriel Novac & Associates Inc.

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 public work 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 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.

Auburn proposes to construct a "Long Term Control Plan Store-Treat Facility Project" at the Auburn Water Pollution Control Facility on Wayne Street in Auburn. The project is part of Auburn's 20- year Long Term Control Plan to reduce combined sewer overflows (CSO's). This project will provide storage volume for excess combined sewer flows in a storage tank during rain events which would have previously discharged to Cedar Creek. After the rain event, the excess sewer flow will be treated at the Water Pollution Control Facility. Proper maintenance of the storage tank will require periodic cleaning, to remove solids that settle at the bottom of the tank. Auburn proposes to use a flushing gate system to remove settled solids from the tank. The flushing gate system holds sewer overflow water in reserve in compartments at the upstream end of the storage tank. This flush water, released by a patented mechanism, gives rise to a high celerity wave that effectively removes all accumulated debris in basins and interceptors over flushway lengths greater than any other available method. The use of sewer

overflow water for this process eliminates the need for freshwater. Auburn researched additional options for cleaning the settled solids from the storage tank, including tipping buckets, and vacuum flushing, and concluded that the flushing gate system is preferable to the other options because it is more cost effective and allows for lower maintenance and more efficiency in operation due the use of stored CSO volume for cleaning.

Auburn has requested a waiver from the Buy American provision for the purchase of a Hydrosel model HS40 flushing gate system manufactured in Canada. Auburn stated in their waiver application that they were unable to locate any domestic manufacturers of flushing gate systems.

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'," ("EPA 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."

EPA's national contractor prepared a technical assessment report dated August 2, 2009 based on the submitted waiver request, identifying two potential domestic suppliers of flushing gates. After being notified of the potential domestic suppliers, Auburn contacted each of them to determine the availability of the manufactured good. The subsequent analysis by Auburn and EPA concluded that neither of the domestic suppliers were able to provide the specified good at the time needed and place needed, and in the proper form or specification as dictated by the project plans and design.

Domestic supplier #1 is currently involved in a lawsuit that could stop the manufacturing and sale of the flushing gate. EPA has determined that, under certain circumstances, litigation creates a sufficient basis to render the specified equipment unavailable from a defendant U.S. manufacturer. Specifically, a U.S. manufacturer's product may be considered unavailable when litigation that may implicate an assistance recipient's legal rights to use—and consequently may subject the assistance recipient to patent infringement liability for using—the manufactured good being considered for a project has proceeded through initial legal processes, or been pending for a sufficient period of time (to make clear that the litigation will not be dismissed as frivolous). EPA

reviewed the litigation documentation and concluded that, due to this pending litigation, procuring the flushing gates from domestic supplier #1 would present an unacceptable risk to Auburn, and this impediment thus means that the specified goods are not available from this supplier. Auburn contacted domestic supplier #2, and inquired about their ability to deliver the manufactured good within the project timeline. On September 30, 2009, domestic supplier #2 stated in writing that they could not meet Auburn's timeline requirements for this project, thus establishing that the flushing gates would not be available from domestic supplier #2. EPA's national contractor's technical assessment report from August 2, 2009, did not find any additional domestic suppliers of the specified manufactured good.

The purpose of the ARRA is to stimulate economic recovery in part by funding current infrastructure construction, not to delay projects that are "shovel ready" by requiring communities such as Auburn to revise their standards and specifications and to start the bidding process again. The imposition of ARRA Buy American requirements on such projects otherwise eligible for ARRA State Revolving Fund assistance would result in unreasonable delay and thus displace the "shovel ready" status for this project. To further delay project implementation is in direct conflict with a fundamental economic purpose of the ARRA, which is to create or retain jobs.

The State and Tribal Programs Branch has reviewed this waiver request and has determined that the supporting documentation provided by Auburn is sufficient to meet the criteria listed under Section 1605(b) of the ARRA, OMB's regulations at 2 CFR 176.60–176.170, and in the April 28, 2009, EPA 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) of the ARRA. 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 Auburn's performance specifications and requirements, a waiver from the Buy American requirement is justified.

The March 31, 2009 Delegation of Authority Memorandum provided Regional Administrators with the 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, Auburn is hereby granted a waiver from the Buy American requirements of Section 1605(a) of Public Law 111-5 for the purchase of the Hydrosel model HS40 flushing gate system using ARRA funds as specified in the community's request of July 14, 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 10, 2009.

**Walter W. Kovalick, Jr.,**

*Acting Regional Administrator, Region 5.*

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## FEDERAL DEPOSIT INSURANCE CORPORATION

### Agency Information Collection Activities: Submission for OMB Review; Comment Request

**AGENCY:** Federal Deposit Insurance Corporation (FDIC).

**ACTION:** Notice of information collection to be submitted to OMB for review and approval under the Paperwork Reduction Act.

**SUMMARY:** The FDIC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on renewal of an existing information collection, as required by the Paperwork Reduction Act of 1995 (4 U.S.C. chapter 35). On December 1, 2009 (74 FR 62776), the FDIC solicited public comment for a 60-day period on renewal of its "Qualifications for Failed Bank Acquisitions" information collection (OMB No. 3064-0169), currently approved under OMB emergency clearance procedures. No comments were received. Therefore, the FDIC hereby gives notice of its submission of the information collection to OMB for review under normal clearance procedures.

**DATES:** Comments must be submitted on or before March 10, 2010.

**ADDRESSES:** Interested parties are invited to submit written comments to the FDIC by any of the following