



7555-01

NATIONAL SCIENCE FOUNDATION

Notice of Buy American Waiver under the American Recovery and Reinvestment Act of 2009

AGENCY: National Science Foundation (NSF).

ACTION: Notice.

SUMMARY: NSF is hereby granting a limited exemption of section 1605 of the American Recovery and Reinvestment Act of 2009 (Recovery Act), Pub. L. No. 111-5, 123 Stat. 115, 303 (2009), with respect to the purchase of the superior holding power balanced anchors that will be used in the Alaska Region Research Vessel (ARRV). These anchors are required in order to accommodate the vessel's ice breaking bow shape and they will save weight.

DATE: [insert date of publication in the Federal Register].

ADDRESS: National Science Foundation, 4201 Wilson Blvd.,

Arlington, Virginia 22230.

FOR FURTHER INFORMATION CONTACT: Mr. Jeffrey Leithead,
Division of Acquisition and Cooperative Support,
703-292-4595

SUPPLEMENTARY INFORMATION: In accordance with section 1605(c) of the Recovery Act and section 176.80 of Title 2 of the Code of Federal Regulations, the National Science Foundation (NSF) hereby provides notice that on February 15, 2012, the NSF Chief Financial Officer, in accordance with a delegation order from the Director of the agency, granted a limited project exemption of section 1605 of the Recovery Act (Buy American provision) with respect to the superior holding power balanced anchors that will be used in the ARRV. The basis for this exemption is section 1605(b)(2) of the Recovery Act, in that superior holding power balanced anchors of satisfactory quality are not produced in the United States in sufficient and reasonably available commercial quantities. The total cost of the three (3) required anchors (~\$42,360) represents less than 0.1% of the total \$148 million Recovery Act award provided for construction of the ARRV.

I. BACKGROUND

The Recovery Act appropriated \$400 million to NSF for several projects being funded by the Foundation's Major Research Equipment and Facilities Construction (MREFC) account. The ARRV is one of NSF's MREFC projects. Section 1605(a) of the Recovery Act, the Buy American provision, states that none of the funds appropriated by the 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."

The ARRV has been developed under a cooperative agreement awarded to the University of Alaska, Fairbanks (UAF) that began in 2007. UAF executed the shipyard contract in December 2009 and the project is currently under construction. The purpose of the Recovery Act is to stimulate economic recovery in part by funding current construction projects like the ARRV that are "shovel ready" without requiring projects to revise their standards and specifications, or to restart the bidding process again.

Subsections 1605(b) and (c) of the Recovery Act authorize the head of a Federal department or agency to waive the Buy American provision if the head of the agency finds that:

(1) applying the provision would be inconsistent with the public interest; (2) the relevant goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or (3) the inclusion of the goods produced in the United States will increase the cost of the project by more than 25 percent.

If the head of the Federal department or agency waives the Buy American provision, then the head of the department or agency is required to publish a detailed justification in the Federal Register. Finally, section 1605(d) of the Recovery Act states that the Buy American provision must be applied in a manner consistent with the United States' obligations under international agreements.

II. FINDING THAT RELEVANT GOODS ARE NOT PRODUCED IN THE UNITED STATES IN SUFFICIENT AND REASONABLY AVAILABLE QUALITY

The specification for the ARRV originally called for standard "stockless" anchors (the stock is the cross arm below the ring on an old-fashioned style anchor), which are

in common use on commercial and military vessels. The design requirements in the specification for the anchoring system on the ARRV include:

1. Approved by the American Bureau of Shipping with regard to operability, quality and size/holding power (6,000 lbs)
2. The anchors drop immediately upon release
3. The anchors do not jam in the hawse pipe (chain pipe between the hull and deck)
4. The anchors do not move when stowed in heavy seas
5. The anchors "self-stow" against the hull

Failure to meet any of these technical requirements would have severe negative impacts on safety. Anchors are required not only for routine use in port or during operations, but in an emergency situation (for example, the loss of propulsion) to keep the vessel from going aground, damaging the hull and sinking. In this situation, the anchors must release from the ship quickly and efficiently. If proper anchors are not used, the safety of the vessel and the lives of everyone on board would be jeopardized. The ARRV is approved by the American Bureau of Shipping (ABS) to ensure safe design, construction, and vessel operation.

Since proper storage of the anchors in the bow of the ship is often difficult to achieve, the specification also called for the shipyard to construct a physical mock-up of the anchoring system, which includes the anchors, anchor pockets (recesses in the bow that keep the anchors from protruding beyond the hull), hawse pipes, and anchor winches. Through this process, it was found that the stockless anchor would not store properly in the pockets that were required to accommodate the ARRV's specialized ice-breaking bow. To protect the anchors during ice operations, the pockets were originally set as high in the bow as possible. The only way to make the stockless anchor work would be to put the pockets excessively close to the water line, but that would be contrary to American Bureau of Shipping and international regulatory guidance for ice-classed vessels. Through continued testing with the mock-up, it was found that only a "balanced" anchor would work with the pockets in the proper location. A balanced anchor always stows with the flukes (the "hooks" that penetrate into the bottom) in the same position.

The specification originally called for three (3) anchors; one on each side of the bow and one spare on deck. This

configuration is typical for all commercial and military vessels. As part of the design effort to reduce weight, the shipyard originally proposed eliminating the spare anchor, which was not considered prudent by UAF. As an option, the use of three smaller, lighter "superior" holding power anchors was proposed during the anchoring system evaluation. This approach was considered the best approach to enhance safety in the event one (or both) fitted anchors are lost in an emergency situation. Use of superior holding power anchors was subsequently approved by ABS as long as the anchor was sufficiently tested, proven, and held an ABS class certificate. ABS allows up to a 25 percent reduction in weight (4,500 lbs each) for a total weight savings of over a ton.

The shipyard's market research included an ABS web based data search for superior holding power anchors.

Approximately forty three (43) companies world-wide were identified that manufacture ABS approved anchors of superior holding anchors. Of these, only two (2) were US manufacturers. Neither company produced an anchor of the correct size that will fit in the ARRV's anchor pocket. The pocket cannot be made larger because of the specialized hull shape of the ice-breaking bow as described above.

The project's conclusion is that there are no US manufacturers who produce suitable superior holding power balanced anchors that meet all of the ARRV requirements, so an exemption from the Buy American requirements is necessary.

In the absence of a domestic supplier that could provide requirements-compliant superior holding power anchors, UAF requested that NSF issue a Section 1605 exemption determination with respect to the purchase of foreign-supplied, requirements-compliant superior holding power balanced anchors, so that the vessel will meet the specific design and technical requirements that, as explained above, are necessary for this vessel to be able to perform its mission successfully. Furthermore, the shipyard's market research indicated that superior holding power balanced anchors compliant with the ARRV's technical specifications and requirements are commercially available from foreign vendors within their standard product lines.

NSF's Division of Acquisition and Cooperative Support (DACS) and other NSF program staff reviewed the UAF exemption request submittal, found that it was complete, and determined that sufficient technical information was

provided in order for NSF to evaluate the exemption request and to conclude that an exemption is needed and should be granted.

III. EXEMPTION

On February 15, 2012, based on the finding that no domestically produced superior holding power balanced anchors met all of the ARRV's technical specifications and requirements and pursuant to section 1605(b), the NSF Chief Financial Officer, in accordance with a delegation order from the Director of the agency signed on May 27, 2010, granted a limited project exemption of the Recovery Act's Buy American requirements with respect to the procurement of superior holding power balanced anchors.

Dated: February 16, 2012

Lawrence Rudolph,

General Counsel.

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