

Agreement between the Government of the United States of America and the Government of Canada on Government Procurement (Canada-U.S. Agreement), the Buy American requirement in section 1605(a) of the Recovery Act will not be applied as a condition of Recovery Act financing in the CDBG-R Program with respect to Canadian iron, steel, or manufactured goods in projects above \$7,804,000. This is effective February 16, 2010 through September 30, 2011. This means that with respect to CDBG-R grantees, Canadian iron, steel, or manufactured goods in procurement above the \$7,804,000 threshold for construction projects shall be treated the same as U.S. iron, steel, or manufactured goods for purposes of the Buy American requirement of section 1605 of the Recovery Act.

The United States is not undertaking any other commitments with respect to the CDBG-R grants, which means that the CDBG-R grantees can continue to apply their own procurement procedures that are consistent with HUD requirements. State and local governments receiving CDBG-R assistance must continue to follow all other requirements including obligation and expenditure requirements. In summary, if a CDBG-R grantee has a construction project involving a public work/building, and is using CDBG-R as a source of funding for this construction project, and the total construction project has an estimated value of more than \$7,804,000, Canadian-sourced iron, steel and manufactured goods may be used and no additional HUD exception will be required.

Dated: March 29, 2010.

**Mercedes M. Márquez,**

*Assistant Secretary for Community Planning and Development.*

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## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5400-N-01]

### Notice of Modifications to U.S. Commitments Under the World Trade Organization Government Procurement Agreement To Implement Agreement With Canada Regarding Section 1605 of the Recovery Act (Buy American Requirement) Applicable to Public Housing Capital Fund Recovery Formula and Competitive Grant Programs

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

**ACTION:** Notice.

**DATES:** *Effective Date:* February 16, 2010 through September 30, 2011.

**SUMMARY:** The domestic purchasing requirement of section 1605(a) of the American Reinvestment and Recovery Act of 2009 (Recovery Act) will not be applied as a condition of Recovery Act financing in Public Housing Capital Fund Recovery Formula and Competitive Grant Programs (Capital Fund Recovery Program) with respect to Canadian iron, steel, and manufactured products in procurement above \$7,804,000 for construction services through September 30, 2011.

**FOR FURTHER INFORMATION CONTACT:** *For Public Housing Capital Fund Recovery Formula and Competitive Grants:* Dominique G. Blom, Deputy Assistant Secretary for Public Housing Investments, Office of Public Housing Investments, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street, SW., Room 4210, Washington, DC 20410-4000, telephone 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:**

The Recovery Act appropriated \$4,000,000,000 for Capital Fund Recovery Program grants to public housing authorities (PHAs) to carry out eligible activities on an expedited basis. Section 1605(a) of the Recovery Act, the "Buy American" provision, states that for Recovery Act funds used for a project for the construction, alteration, maintenance, or repair of a public building or public work, all of the iron, steel, and manufactured goods used in the project must be produced in the United States. Interim final guidance (2 CFR Part 176) for implementing the Buy American provision was issued by the Office of Management and Budget (OMB) on April 23, 2009 at 74 **Federal Register** 18449, and applies to the Capital Fund Recovery Program. HUD issued Buy American guidance in Public Housing Notice 2009-31, issued August 21, 2009, see <http://www.hud.gov/offices/adm/hudclips/notices/pih/09pihnotices.cfm>. OMB is issuing Amendments of Interim Final Guidance to reflect changes with respect to U.S. international obligations.

Section 1605(d) of the Recovery Act provides that the Buy American requirement in section 1605 shall be applied in a manner consistent with U.S. obligations under international agreements. The OMB guidance

provides that the Buy American requirement shall not be applied where the iron, steel, or manufactured goods used in the project are from a Party to an international agreement, listed in 2 CFR 176.90(b) and the recipient is required under an international agreement, described in the Appendix to Subpart B of 2 CFR 176, to treat the goods and services of that Party the same as domestic goods and services. As of January 1, 2010, this obligation shall only apply to projects with an estimated value of \$7,804,000 or more and projects that are not specifically excluded from the application of those agreements. Based on the recently concluded Agreement between the Government of the United States of America and the Government of Canada on Government Procurement (Canada-U.S. Agreement), the Buy American requirement in section 1605(a) of the Recovery Act will not be applied as a condition of Recovery Act financing in the Capital Fund Recovery Program with respect to Canadian iron, steel, or manufactured goods in projects above \$7,804,000. This is effective February 16, 2010 through September 30, 2011. This means that with respect to PHAs in the Capital Fund Recovery Program, Canadian iron, steel, or manufactured goods in procurement above the \$7,804,000 threshold for construction projects shall be treated the same as U.S. iron, steel, or manufactured goods for purposes of the Buy American requirement of section 1605 of the Recovery Act.

The United States is not undertaking any other commitments with respect to Capital Fund Recovery Program grants, which means that the PHAs can continue to apply their procurement procedures that are consistent with HUD's Recovery Act. PHAs receiving Capital Fund Recovery Program grant assistance must continue to follow all other requirements including obligation and expenditure requirements. In summary, if a PHA has a construction project involving a public work/building, and is using Capital Fund Recovery Program grant assistance as a source of funding for this construction project, and the total construction project has an estimated value of more than \$7,804,000, Canadian-sourced iron, steel and manufactured goods may be used and no additional HUD exception will be required.

Dated: March 5, 2010.

**Sandra B. Henriquez,**

*Assistant Secretary for Public and Indian Housing.*

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