

no information suggesting that Bach's owns or controls the operations of XYZ. Bach's is eligible for the LSE and is not a HHG mover.

Example B

Q-Bic Crates Movers, Inc. claims on its Web site to be a "Top Notch Moving Company" and to provide "the lowest cost, high quality moving services." Q-Bic Crates provides binding and nonbinding estimates and inventorying services. The company's Web site refers customers to Q-Bic Muscles, Inc. for assistance with packing and unpacking. FMCSA has received complaints that when Q-Bic Crates employees deliver containers to shippers' homes, they attempt to pressure shippers into signing agreements for labor from Q-Bic Muscles. Investigation reveals that Q-Bic Crates Movers and Q-Bic Muscles have owners and officers in common, are run out of the same location and pool their revenue to pay salaries to several of the same individuals. Approximately 95 percent of Q-Bic Muscles' revenue is from Q-Bic Crates customers. Q-Bic Crates is not eligible for the LSE and must comply with the consumer protection and other regulations applicable to HHG motor carriers.

Definition of the Term "Agent"

One determinant of whether or not a carrier is providing transportation that qualifies for the LSE is whether an "agent" of the carrier is performing loading and unloading services. The FMCSA defines the term "agent" by applying its commonly accepted meaning: "one who is authorized to act for or in place of another; a representative." Black's Law Dictionary, (8th ed. 2004). "Agency is the fiduciary relationship that arises when one person (a 'principal') manifests assent to another person (an 'agent') that the agent shall act on the principal's behalf and subject to the principal's control and the agent manifests assent or otherwise so consents to act." Restatement (Third) of Agency § 1.01. What does or does not constitute authorization to act for or in place of another will depend upon the details and circumstances of the parties' relationship.

Whether an Entity Is Operating as a HHG Broker

The FMCSA defines a "household goods broker," in part, as a person that arranges "for transportation of household goods by motor carrier for compensation." 49 CFR 371.103. Therefore, whether or not a broker is a "household goods broker" is based

upon whether "transportation of household goods" is taking place. The FMCSA and its predecessor, the Interstate Commerce Commission (ICC), have long focused on the nature of the service, as opposed to the physical goods being transported, to determine whether HHG transportation is taking place. See e.g., *American Intermodal Services, Inc., Extension—Nationwide Contract Carrier Service*, 1987 WL 100149, at *2 (ICC decided Dec. 22, 1987) ("[T]he mere transportation of containerized household goods without the provision of the specialized service or equipment normally required for such commodities is not within the definition of household goods transportation and may be performed under 'general commodities (except household goods)' authority."). In June 2001, FMCSA issued an opinion that was in agreement with the underlying rationale of the ICC decisions—that the HHG regulatory requirements are directed at a discrete segment of the transportation industry that provides specialized services in specialized equipment. Therefore, arranging for shipments that are transported subject to the LSE will not convert a property broker into a "household goods broker," as FMCSA does not consider the underlying transportation to be the "transportation of household goods."

Moreover, 49 CFR 371.105 states that "[y]ou may only act as a household goods broker for a motor carrier that has a valid, active U.S. DOT number and valid operating authority issued by FMCSA to transport household goods in interstate or foreign commerce." In other words, HHG brokers may not act as property brokers ("You may only act as a household goods broker * * *"). Unless HHG brokers have separate property broker authority, they are not permitted to perform brokerage of regular freight loads or for carriers that do not have valid HHG operating authority. Thus, a HHG broker is an entity that brokers transportation for a HHG motor carrier. However, as defined in 49 U.S.C. 13102(12)(C), a motor carrier operating subject to the LSE is not considered a HHG motor carrier. Accordingly, the entity that brokers such transportation is not a HHG broker.

However, as with a container company that engages in activities associated with HHG movements, if a broker makes claims on its Web site or elsewhere about "full service moving" or other specialized services, FMCSA may investigate whether the broker meets the definition of HHG broker, i.e., "holds itself out by solicitation, advertisement, or otherwise as selling, providing, or arranging for,

transportation of household goods by motor carrier for compensation." 49 CFR 371.103. If FMCSA makes such a finding, the broker would be subject to the consumer protection regulations at 49 CFR part 371, subpart B "Special Rules for Household Goods Brokers." In analyzing a broker's regulatory status, FMCSA will look at whether the broker is making claims that it arranges services for HHG motor carriers as defined at 49 U.S.C. § 13102(12)(A). Those carriers offer some or all of the following services: Binding and nonbinding estimates, inventorying, protective packing and unpacking of individual items at personal residences and loading and unloading at personal residences.

In sum, only property broker authority is required when arranging for the transportation of shipments eligible for the LSE. However, if a broker also performs activities constituting the arrangement of "transportation of household goods by motor carrier for compensation" (49 CFR 371.103), it needs HHG brokerage authority as well.

Issued on: March 25, 2013.

Anne S. Ferro,
Administrator.

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DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Proposed Information Collection; Comment Request

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and Request for comment.

SUMMARY: The OCC, 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 a continuing information collection, as required by the Paperwork Reduction Act of 1995. An agency may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid OMB control number. The OCC is soliciting comment concerning its information collection titled, "Community and Economic Development Entities, Community Development Projects, and Other Public Welfare Investments—12 CFR part 24."

DATES: Comments must be submitted on or before May 31, 2013.

ADDRESSES: Because paper mail in the Washington, DC area and at the OCC is subject to delay, commenters are encouraged to submit comments by email if possible. Comments may be sent to: Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, Attention: 1557-0194, 400 7th Street, SW., Suite 3E-218, Mail Stop 9W-11, Washington, DC 20219. In addition, comments may be sent by fax to (571) 465-4326 or by electronic mail to regs.comments@occ.treas.gov. You may personally inspect and photocopy comments at the OCC, 400 7th Street SW., Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649-6700. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

All comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not enclose any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

FOR FURTHER INFORMATION CONTACT: You may request additional information or a copy of the collection from Johnny Vilela or Mary H. Gottlieb, OCC Clearance Officers, (202) 649-5490, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 400 7th Street SW., Suite 3E-218, Mail Stop 9W-11, Washington, DC 20219.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501-3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) to include agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, the OCC is publishing notice of the proposed collection of information set forth in this document.

The OCC is proposing to extend the following information collection:

Title: Community and Economic Development Entities, Community Development Projects, and Other Public Welfare Investments—12 CFR part 24
OMB Control No.: 1557-0194.

Description: This submission covers an existing regulation and revisions to the Part 24, CD-1, National Bank Community Development Investments form contained in the regulation, pursuant to which a national bank may notify the OCC, or request OCC approval, of certain community development investments.

Section 24.5(a) provides that an eligible national bank may make an investment without prior notification to, or approval by, the OCC if the bank submits an after-the-fact notification of an investment within 10 days of making the investment.

Section 24.5(a)(5) provides that a national bank that is not an eligible bank, but that is at least adequately capitalized, and has a composite rating of at least 3 with improving trends under the Uniform Financial Institutions Rating System, may submit a letter to the OCC requesting authority to submit after-the-fact notices of its investments.

Section 24.5(b) provides that if a national bank does not meet the requirements for after-the-fact notification, the bank must submit an investment proposal to the OCC.

The OCC requests that OMB approve its revised estimates and extend its approval of the information collection.

Type of Review: Revision of a currently approved collection.

Affected Public: Individuals; Businesses or other for-profit.

Estimated Number of Respondents: 880.

Estimated Total Annual Responses: 880.

Frequency of Response: On occasion.
Estimated Total Annual Burden: 1365 hours.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the OCC, including whether the information has practical utility;

(b) The accuracy of the OCC's estimate of the burden of the collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: March 26, 2013.

Michele Meyer,

Assistant Director, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency.

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Notice 2004-11

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, 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 proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Notice 2004-11, Research Credit Record Retention Agreements.

DATES: Written comments should be received on or before May 31, 2013 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette Lawrence, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Martha R. Brinson at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202) 622-3869, or through the Internet at Martha.R.Brinson@irs.gov.

SUPPLEMENTARY INFORMATION:

Title: Research Credit Record Retention Agreements.

OMB Number: 1545-1859.

Notice Number: Notice 2004-11.

Abstract: Notice 2004-11 announces a pilot program in which the Internal Revenue Service and large and mid-size