

(2) The head of the Federal department or agency shall publish a notice in the FEDERAL REGISTER within two weeks after the determination is made, unless the item has already been determined to be domestically nonavailable. A list of items that are not domestically available is at 48 CFR 25.104(a). The FEDERAL REGISTER notice or information from the notice may be posted by OMB to Recovery.gov. The notice shall include—

- (i) The title “Buy American Exception under the American Recovery and Reinvestment Act of 2009”;
- (ii) The dollar value and brief description of the project; and
- (iii) A detailed written justification as to why the restriction is being waived.

**§ 176.90 Acquisitions covered under international agreements.**

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.

(a) The Buy American requirement set out in §176.70 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 paragraph (b) of this section, and the recipient is required under an international agreement, described in the appendix to this subpart, 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.

(b) The international agreements that obligate recipients that are covered under an international agreement to treat the goods and services of a Party the same as domestic goods and services and the respective Parties to the agreements are:

(1) The World Trade Organization Government Procurement Agreement (Aruba, Austria, Belgium, Bulgaria, Canada, Chinese Taipei (Taiwan), Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece,

Hong Kong, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea (Republic of), Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, and United Kingdom);

(2) The following Free Trade Agreements:

- (i) Dominican Republic-Central America-United States Free Trade Agreement (Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Nicaragua);
- (ii) North American Free Trade Agreement (NAFTA) (Canada and Mexico);
- (iii) United States-Australia Free Trade Agreement;
- (iv) United States-Bahrain Free Trade Agreement;
- (v) United States-Chile Free Trade Agreement;
- (vi) United States-Israel Free Trade Agreement;
- (vii) United States-Morocco Free Trade Agreement;
- (viii) United States-Oman Free Trade Agreement;
- (ix) United States-Peru Trade Promotion Agreement; and
- (x) United States-Singapore Free Trade Agreement.

(3) United States-European Communities Exchange of Letters (May 15, 1995): Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovak Republic, Slovenia, Spain, Sweden, and United Kingdom; and

(4) Agreement between the Government of Canada and the Government of the United States of America on Government Procurement.

[74 FR 18450, Apr. 23, 2009, as amended at 75 FR 14323, Mar. 25, 2010]

**§ 176.100 Timely determination concerning the inapplicability of section 1605 of the Recovery Act.**

(a) The head of the Federal department or agency involved may make a determination regarding inapplicability of section 1605 to a particular case or to a category of cases.