



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAR 31 2009

THE ADMINISTRATOR

MEMORANDUM

SUBJECT: Delegation of Authority to Allow Assistant Administrators and Regional Administrators to Issue Exceptions to Section 1605 of the American Recovery and Reinvestment Act of 2009

TO: Acting Assistant Administrators
Acting General Counsel
Acting Inspector General
Acting Chief Financial Officer
Acting Associate Administrators
Acting Regional Administrators

You are hereby delegated the authority to issue exceptions to Section 1605 of the American Recovery and Reinvestment Act of 2009 on behalf of your respective U.S. Environmental Protection Agency headquarters or regional office under any Agency financial assistance program receiving funding under the American Recovery and Reinvestment Act of 2009 to which section 1605 applies.

This temporary delegation of authority will remain in effect until all grants and/or cooperative agreements are awarded and the administration of the grants is completed with funding available under the American Recovery and Reinvestment Act of 2009 and any subsequent Acts providing supplemental appropriations for economic recovery. This delegation is limited to the purposes stated above and only within the limitations of applicable law, regulations, and Agency policies. Additional limitations are as follows:

1. Regional Administrators may exercise this authority only within the geographic boundaries of their respective regions and with respect to requests by individual grant recipients to make such exceptions.
2. Assistant Administrators may exercise this authority with respect to exceptions that have applicability to two or more grant recipients or broad applicability for a national program.
3. The Assistant Administrator for the Office of Administration and Resources Management must concur in all decisions to make exceptions.

The authority in this temporary delegation may not be redelegated.

This delegation supplements any authorities previously assigned to the regions and supersedes any other conflicting provisions.



Lisa P. Jackson



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAR 27 2009

MEMORANDUM

OFFICE OF
ADMINISTRATION
AND RESOURCES
MANAGEMENT

SUBJECT: Request for a Temporary Delegation of Authority to Allow Assistant Administrators and Regional Administrators to Issue Exceptions to Section 1605 of the American Recovery and Reinvestment Act of 2009.

FROM: Craig E. Hooks *C. E. Hooks*
Acting Assistant Administrator

TO: Lisa P. Jackson
Administrator

ISSUE

The Office of Grants and Debarment requests a Temporary Delegation of Authority to Assistant Administrators and Regional Administrators to allow them to issue exceptions to Section 1605 of the American Recovery and Reinvestment Act of 2009 (ARRA). The authority in this temporary delegation may not be redelegated.

BACKGROUND

Section 1605 of the ARRA prohibits the use of recovery funds for a project for the construction, alteration, maintenance, or repair of a public building or public work unless all the iron, steel, and manufactured goods used in the project are produced in the United States. It further requires that the prohibition be applied consistent with U.S. obligations under international agreements, and provides for waiver, or exceptions, under three circumstances:

- (1) Iron, steel, or the relevant manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality;
- (2) Inclusion of iron, steel, or manufactured goods produced in the United States will increase the cost of the overall project by more than 25 percent; or

- (3) Applying the domestic preference would be inconsistent with the public interest

The ARRA further provides that if a waiver is made, the agency shall publish in the Federal Register a detailed written justification as to why the provision is being waived. The Office of Management and Budget guidance states that the published justification shall include: The title "Buy American Exception under the American recovery and reinvestment Act of 2009", the dollar value and brief description of the project, and a detailed written justification as to why the restriction is being waived.

Because the requirements of Section 1605 of the ARRA are new, the Agency believes that there will potentially be many requests for exceptions with respect to some material goods for public works projects, particularly by recipients of funds under the Clean Water and Drinking Water State Revolving Funds programs. In addition, the waivers must be processed quickly so that recipients of funds can begin or continue projects in the expedited basis that is required by the ARRA.

REVIEW AND ANALYSIS

Per the Office of Human Resources Directive Clearance rules, proposed Temporary Delegations of Authority do not require Agency-wide review since these delegations are limited in duration and do not automatically renew without being resubmitted for approval. To prevent any delay in processing these requests for waivers or exceptions, a temporary delegation is requested until all stimulus funding agreements are awarded and fully administered in accordance with the ARRA and any subsequent Acts providing supplemental appropriations for economic recovery. This delegation may not be re-delegated further.

The Office of General Counsel concurs with this request.

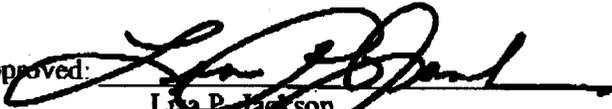
The requested temporary delegation is limited to the purposes stated above and only within the limitations of applicable law, regulations, and Agency policies. Additional limitations are as follows:

1. Regional Administrators may exercise this authority only within the geographic boundaries of their respective regions, and with respect to requests by individual grant recipients to make such exceptions.
2. Assistant Administrators may exercise this authority with respect to exceptions that have applicability to two or more grant recipients or broad applicability for a national program.

RECOMMENDATION

I recommend that you approve the attached Temporary Delegation of Authority to allow Assistant Administrators and Regional Administrators to issue exceptions to Section 1605 of the American Recovery and Reinvestment Act of 2009.

Approved: _____



Lisa P. Jackson
Administrator

MAR 31 2009

Date: _____

Attachment