11–3–09285 was lodged with the United States District Court for the Eastern District of Pennsylvania.

In this action the United States sought reimbursement of response costs incurred in connection with the release or threatened release of hazardous substances at the North Penn 12 Superfund Site, Worcester Township, Montgomery County, Pennsylvania (the "Site"). The Consent Decree obligates the Settling Defendant to reimburse $10,429.94 of the United States' past response costs paid in connection with the Site, and to pay future response costs to be incurred by the United States at the Site as well.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either emailed to *pubcomment-ees.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *Schlumberger Technology Corporation,* Civil Action No. 2:10-cv-00783–TON, D.J. Ref. 90–11–3–09285.

The Consent Decree may be examined at the Office of the United States Attorney, Eastern District of Pennsylvania, 615 Chestnut Street, Suite 1250 Philadelphia, PA 19106, and at U.S. EPA Region 3. During the public comment period, the Consent Decree may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/Consent_Decrees.html.* A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $6.75 (@ 25 cents per page reproduction cost) payable to the U.S. Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address.

**Maureen Katz,**

*Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.*

[FR Doc. 2010–4060 Filed 2–26–10; 8:45 am]

**BILLING CODE 4410–15–P**

## 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:** The National Science Foundation (NSF) has granted a limited waiver of section 1605 of the American Recovery and Reinvestment Act of 2009 (Recovery Act), Public Law 111–5, 123 Stat. 115, 303 (2009), with respect to the purchase of the bow thruster that will be used in the Alaska Region Research Vessel (ARRV). A bow thruster is a propulsion device that is built into a vessel's bow to make it more maneuverable and better able to hold a certain position or orientation at sea.

**DATES:** March 1, 2010.

**ADDRESSES:** 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 January 28, 2010, the NSF Director granted a limited project waiver of section 1605 of the Recovery Act (Buy American provision) with respect to the bow thruster that will be used in the ARRV. The basis for this waiver is section 1605(b)(2) of the Recovery Act, in that 360-degree azimuthing, 686-kW (920 hp), ice certified bow thrusters of satisfactory quality are not produced in the United States in sufficient and reasonably available commercial quantities. The cost of the bow thruster represents approximately 0.5% of the total $148 million Recovery Act award provided toward 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. Shipyard selection is complete and UAF executed the construction contract in December 2009. 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 vessel's operational design requirements, as set forth in the Science Mission Requirements and documented in the UAF's proposal, dictate two particular bow thruster specifications: (1) A certification for use in ice to permit independent operations in the Arctic; and (2) a requirement to hold the ship in a specific location or orientation for science operations. Consequently, a design was prepared that included a bow thruster and an ice wedge located on the hull. An ice wedge is a projection at the front of a vessel below the water line that moves ice to the sides as the bow breaks and pushes it down. This particular hull form, together with the requirements to hold the ship in a certain position at sea, further constrains the bow thruster design, resulting in the following four technical requirements of any bow thruster for this particular vessel:

• *Size*—The unit must fit within the space allocated in the hull and ice wedge;
• *Power*—Minimum 686-kW rated (920 hp);
• *Capability*—360-degree thrust (azimuthing steering control);
• *Certification for use in ice*—No hull protrusion(s), tunnel with propeller, or any feature that subjects the thruster to ice damage along the hull form, per American Bureau of Shipping Rules for Building and Classing Vessels, Polar Class PC–5.

Failure to meet any of these four technical requirements would have severe negative consequences for the capabilities of the vessel. It is not feasible to modify the shape of the hull forward to accommodate a thruster of a different configuration, since the hull shape has been optimized for ice breaking through extensive testing over the past four years. Any changes at this point would significantly affect vessel capabilities. Reduction of the minimum power, or elimination of the 360-degree thrust requirement, would also result in a vessel that could not successfully support open water science equipment deployments in the Arctic. Vessels working in the Arctic are subject to demanding and often dangerous conditions due to low temperatures, high winds, and rough seas as well as ice. Accepting a design that is susceptible to ice damage could render the bow thruster inoperable under these severe conditions, thereby jeopardizing the safety of the vessel and personnel aboard. Such compromises also produce a ship that would not be allowed to operate independently in the Arctic under emerging international agreements which require minimum standards for equipment survivability for vessels operating in polar waters (Arctic and Antarctic). Independent operation is critical to cost-effective science support. Requiring the ARRV to be escorted by another, more ice-capable vessel could add over $6M in outside charter cost for NSF and the other funding agencies for every 100 days in the ice. Frequent damage as a result of using a non-compliant design would add significant annual program cost for maintenance and repair (in excess of $100K per incident depending on the extent of damage) once the vessel goes into operation. This financial loss is in addition to the lost science opportunities caused by delay in sailing.

As noted in UAF's request for this waiver, UAF performed market research in April and early May of 2009 that initially found that bow thrusters are generally available in manufacturers' commercial product lines. UAF then conducted additional market research by reviewing industry publications and the Internet, and by attending an industry suppliers' conference, in order to assess whether there exists a domestic capability to provide a bow thruster that meets the necessary requirements for safe and successful operation in Arctic waters.

After identifying 15 potential domestic suppliers, UAF compared the existing product lines for compliance with the bow thruster technical specifications and requirements as identified above.

Beginning with an assessment of power requirements, the bow thrusters offered by 12 domestic firms either did not meet the 686-kW rated minimum or the companies simply served as distributors of others' product lines. Two of the remaining three domestic suppliers did not provide bow thrusters that meet the required ice certification standards, because their products rely upon tunnels with propellers or units that extended from the hull; these features make this type of bow thruster susceptible to ice damage which, as explained above, could render them inoperable under the severe conditions inherent in Arctic operations. The final, most capable domestic manufacturer of bow thrusters did comply with the stated size, power and (potentially) capability requirements. However, this bow thruster relies upon controllable vanes that are fitted to the thruster discharge nozzles to achieve the 360-degree thrust capability. The controllable vanes make the bow thrusters susceptible to ice damage which, as explained above, could render them inoperable under the severe conditions inherent in Arctic operations.

In the absence of a domestic supplier that could provide a requirements-compliant bow thruster, UAF requested that NSF issue a Section 1605 waiver determination with respect to the purchase of foreign-supplied, requirements-compliant bow thruster, so that the vessel will contain a bow thruster that meets the specific design and technical requirements which, as explained above, are necessary for this vessel to be able to perform its Arctic mission safely and successfully. Furthermore, UAF's market research indicated that bow thrusters 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 waiver request submittal, found that it was complete, and determined that sufficient technical information was provided in order for NSF to evaluate the waiver request and to conclude that a waiver is needed and should be granted.

### III. Waiver

On January 28, 2010, based on the finding that no domestically produced bow thruster met all of the ARRV's technical specifications and requirements and pursuant to section 1605(b), the Director of the National Science Foundation granted a limited project waiver of the Recovery Act's Buy American requirements with respect to the procurement of a 360-degree azimuthing, 686-kW, ice classed bow thruster.

Dated: February 24, 2010.

**Lawrence Rudolph,**

*General Counsel.*

[FR Doc. 2010–4170 Filed 2–26–10; 8:45 am]

**BILLING CODE 7555–01–P**

## SMALL BUSINESS ADMINISTRATION

### SBA Lender Risk Rating System

**AGENCY:** Small Business Administration.

**ACTION:** Notice of revised Risk Rating System; request for comments.

**SUMMARY:** This notice implements changes to the Small Business Administration's (SBA's) Risk Rating System (Risk Rating System). The Risk Rating System is an internal tool to assist SBA in assessing the risk of each active 7(a) Lender's and Certified Development Company's (CDC's) SBA loan operations and loan portfolio. Consistent with industry best practices, SBA recently redeveloped the model used to calculate the composite risk ratings to ensure that the Risk Rating System remains current and predictive as technologies and available data evolve. SBA is publishing this notice with a request for comments to provide the public with an opportunity to comment and to allow for any necessary adjustments as the industry moves through the economic cycle.

**DATES:** This notice is effective March 1, 2010.

*Comment Date:* Comments must be received on or before April 30, 2010.

**ADDRESSES:** You may submit comments, identified by RIN number [INSERT RIN NUMBER], by any of the following methods:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.