

(b) *Requests for determinations of inapplicability.* A prospective applicant requesting a determination regarding the inapplicability of section 1605 of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111–5) (Recovery Act) should submit the request to the award official in time to allow a determination before submission of applications or proposals. The prospective applicant shall include the information and applicable supporting data required by 2 CFR 176.160 (c) and (d) in the request. If an applicant has not requested a determination regarding the inapplicability of section 1605 of the Recovery Act before submitting its application or proposal, or has not received a response to a previous request, the applicant shall include the information and supporting data in the application or proposal.

(c) *Evaluation of project proposals.* If the Federal Government determines that an exception based on unreasonable cost of domestic iron, steel, and/or manufactured goods applies, the Federal Government will evaluate a project requesting exception to the requirements of section 1605 of the Recovery Act by adding to the estimated total cost of the project 25 percent of the project cost if foreign iron, steel, or manufactured goods are used based on unreasonable cost of comparable domestic iron, steel, or manufactured goods.

(d) *Alternate project proposals .* (1) When a project proposal includes foreign iron, steel, and/or manufactured goods, other than designated country iron, steel, and/or manufactured goods, that are not listed by the Federal Government in this Buy American notice in the request for applications or proposals, the applicant may submit an alternate proposal based on use of equivalent domestic or designated country iron, steel, and/or manufactured goods.

(2) If an alternate proposal is submitted, the applicant shall submit a separate cost comparison table prepared in accordance with paragraphs 2 CFR 176.160(c) and (d) for the proposal that is based on the use of any foreign iron, steel, and/or manufactured goods for which the Federal Government has not yet determined an exception applies.

(3) If the Federal Government determines that a particular exception requested in accordance with 2 CFR 176.160(b) does not apply, the Federal Government will evaluate only those proposals based on use of the equivalent domestic or designated country iron, steel, and/or manufactured goods, and the applicant shall be required to furnish such domestic or designated country items.

**Appendix to Subpart B of 2 CFR part 176—U.S. States, Other Sub-Federal Entities, and Other Entities Subject to U.S. Obligations Under International Agreements (as of February 16, 2010)**



<b>States</b>	<b>Entities covered</b>	<b>Exclusions</b>	<b>Relevant international agreements</b>
Arizona	Executive branch agencies		—WTO GPA.
			—U.S.-Chile FTA.
			—U.S.-Singapore FTA.
Arkansas	Executive branch agencies, including universities but excluding the Office of Fish and Game	Construction services	—WTO GPA. —DR-CAFTA. —U.S.-Australia FTA. —U.S.-Chile FTA.
			—U.S.-Morocco FTA.
			—U.S.-Peru TPA.
			—U.S.-Singapore FTA.
California	Executive branch agencies		—WTO GPA.
			—U.S.-Australia FTA.
			—U.S.-Chile FTA. —U.S.-Singapore FTA.

Colorado	Executive branch agencies		—WTO GPA.
			—DR-CAFTA.
			—U.S.-Australia FTA.
			—U.S.-Chile FTA.
			—U.S.-Morocco FTA.
			—U.S.-Peru TPA.
			—U.S.-Singapore FTA.
Connecticut	—Department of Administrative Services —Department of Transportation. —Department of Public Works. —Constituent Units of Higher Education		—WTO GPA. —DR-CAFTA. —U.S.-Australia FTA. —U.S.-Chile FTA. —U.S.-Morocco FTA. —U.S.-Singapore FTA.
Delaware	—Administrative Services (Central Procurement Agency). —State Universities. —State Colleges.	Construction-grade steel (including requirements on subcontracts); motor vehicles; coal	—WTO GPA. —DR-CAFTA (except Honduras). —U.S.-Australia FTA. —U.S.-Chile FTA. —U.S.-Morocco FTA. —U.S.-Singapore FTA.
Florida	Executive branch agencies	Construction-grade steel (including requirements on subcontracts); motor vehicles; coal	—WTO GPA. —DR-CAFTA. —U.S.-Australia FTA. —U.S.-Chile FTA.
			—U.S.-Morocco FTA.
			—U.S.-Peru TPA.
			—U.S.-Singapore FTA.
Georgia	—Department of Administrative Services	Beef; compost; mulch	—U.S.-Australia FTA.
	—Georgia Technology Authority		
Hawaii	Department of Accounting and General Services	Software developed in the State; construction	—WTO GPA. —DR-CAFTA (except Honduras).
			—U.S.-Australia FTA. —U.S.-Chile FTA. —U.S.-Morocco FTA.

			—U.S.-Singapore FTA.
Idaho	Central Procurement Agency (including all colleges and universities subject to central purchasing oversight)		—WTO GPA. —DR-CAFTA (except Honduras). —U.S.-Australia FTA. —U.S.-Chile FTA.
			—U.S.-Morocco FTA. —U.S.-Singapore FTA.
Illinois	—Department of Central Management Services	Construction-grade steel (including requirements on subcontracts); motor vehicles; coal	—WTO GPA. —U.S.-Australia FTA. —U.S.-Chile FTA.
			—U.S.-Peru TPA. —U.S.-Singapore FTA. —U.S.-EC.
			Exchange of Letters (applies to EC Member States for procurement not covered by WTO GPA and only where the State considers out-of-State suppliers).
Iowa	—Department of General Services —Department of Transportation. —Board of Regents' Institutions (universities)	Construction-grade steel (including requirements on subcontracts); motor vehicles; coal	—WTO GPA. —U.S.-Chile FTA. —U.S.-Singapore FTA.
Kansas	Executive branch agencies	Construction services; automobiles; aircraft	—WTO GPA. —U.S.-Australia FTA.
			—U.S.-Chile FTA. —U.S.-Morocco FTA. —U.S.-Singapore FTA.
Kentucky	Division of Purchases, Finance and Administration Cabinet	Construction projects	—WTO GPA. —DR-CAFTA. —U.S.-Australia FTA. —U.S.-Chile FTA.

			—U.S.-Morocco FTA. —U.S.-Singapore FTA.
Louisiana	Executive branch agencies		—WTO GPA.
			—DR-CAFTA. —U.S.-Australia FTA. —U.S.-Chile FTA. —U.S.-Morocco FTA. —U.S.-Singapore FTA.
Maine	—Department of Administrative and Financial Services —Bureau of General Services (covering State government agencies and school construction) — Department of Transportation.	Construction-grade steel (including requirements on subcontracts); motor vehicles; coal	—WTO GPA. —U.S.-Australia FTA. —U.S.-Chile FTA. —U.S.-Singapore FTA.
Maryland	—Office of the Treasury —Department of the Environment. —Department of General Services. —Department of Housing and Community Development. —Department of Human Resources. —Department of Licensing and Regulation. —Department of Natural Resources. —Department of Public Safety and Correctional Services. —Department of Personnel. —Department of Transportation.	Construction-grade steel (including requirements on subcontracts); motor vehicles; coal	—WTO GPA. —DR-CAFTA. —U.S.-Australia FTA. —U.S.-Chile FTA. —U.S.-Morocco FTA. —U.S.-Singapore FTA.

Massachusetts	—Executive Office for Administration and Finance		—WTO GPA. —U.S.-Chile FTA.
	—Executive Office of Communities and Development		—U.S.-Singapore FTA.
	—Executive Office of Consumer Affairs		
	—Executive Office of Economic Affairs		
	—Executive Office of Education		
	—Executive Office of Elder Affairs		
	—Executive Office of Environmental Affairs		
	—Executive Office of Health and Human Service		
	—Executive Office of Labor		
	—Executive Office of Public Safety		
	—Executive Office of Transportation and Construction		
Michigan	Department of Management and Budget	Construction-grade steel (including requirements on subcontracts); motor vehicles; coal	—WTO GPA. —U.S.-Australia FTA. —U.S.-Chile FTA. —U.S.-Singapore FTA.
Minnesota	Executive branch agencies		—WTO GPA.
			—U.S.-Chile FTA.
			—U.S.-Singapore FTA.
Mississippi	Department of Finance and Administration	Services	—WTO GPA. —DR-CAFTA.
			—U.S.-Australia FTA.
			—U.S.-Chile FTA.
			—U.S.-Morocco FTA.
			—U.S.-Peru TPA.

			—U.S.-Singapore FTA.
Missouri	—Office of Administration		—WTO GPA.
	—Division of Purchasing and Materials Management		—U.S.-Chile FTA. —U.S.-Singapore FTA.
Montana	Executive branch agencies	Goods	—WTO GPA.
			—U.S.-Chile FTA.
			—U.S.-Singapore FTA.
Nebraska	Central Procurement Agency		—WTO GPA.
			—DR-CAFTA.
			—U.S.-Australia FTA.
			—U.S.-Chile FTA.
			—U.S.-Morocco FTA.
			—U.S.-Singapore FTA.
New Hampshire	Central Procurement Agency	Construction-grade steel (including requirements on subcontracts), motor vehicles; coal	—WTO GPA. —DR-CAFTA. —U.S.-Australia FTA. —U.S.-Chile FTA. —U.S.-Morocco FTA. —U.S.-Singapore FTA.
New York	—State agencies —State university system. —Public authorities and public benefit corporations, with the exception of those entities with multi-State mandates.	Construction-grade steel (including requirements on subcontracts); motor vehicles; coal; transit cars, buses and related equipment	—WTO GPA. —DR-CAFTA. —U.S.-Australia FTA. —U.S.-Chile FTA. —U.S.-Morocco FTA. —U.S.-Peru TPA. —U.S.-Singapore FTA.
North Dakota			—U.S.-EC Exchange of Letters (applies to EC Member States and only where the State considers out-of-State suppliers).
Oklahoma	Department of Central Services and all State	Construction services; construction-grade steel (including	—WTO GPA. —U.S.-Australia FTA. —U.S.-Chile FTA.

	agencies and departments subject to the Oklahoma Central Purchasing Act	requirements on subcontracts); motor vehicles; coal	—U.S.-Peru TPA. —U.S.-Singapore FTA.
Oregon	Department of Administrative Services		—WTO GPA. —DR-CAFTA (except Honduras).
			—U.S.-Australia FTA.
			—U.S.-Chile FTA.
			—U.S.-Morocco FTA.
			—U.S.-Singapore FTA.
Pennsylvania	Executive branch agencies, including: —Governor's Office. —Department of the Auditor General. —Treasury Department. —Department of Agriculture.	Construction-grade steel (including requirements on subcontracts); motor vehicles; coal	—WTO GPA. —U.S.-Australia FTA. —U.S.-Chile FTA. —U.S.-Singapore FTA.
	—Department of Banking		
	—Pennsylvania Securities Commission		
	—Department of Health		
	—Department of Transportation		
	—Insurance Department		
	—Department of Aging		
	—Department of Correction		
	—Department of Labor and Industry		
	—Department of Military Affairs		
	—Office of Attorney General		

	—Department of General Services		
	—Department of Education		
	—Public Utility Commission		
	—Department of Revenue		
	—Department of State		
	—Pennsylvania State Police		
	—Department of Public Welfare		
	—Fish Commission		
	—Game Commission		
	—Department of Commerce		
	—Board of Probation and Parole		
	—Liquor Control Board		
	—Milk Marketing Board		
	—Lieutenant Governor's Office		
	—Department of Community Affairs		
	—Pennsylvania Historical and Museum Commission		
	—Pennsylvania Emergency Management Agency		
	—State Civil Service Commission		
	—Pennsylvania Public Television Network		

	—Department of Environmental Resources		
	—State Tax Equalization Board		
	—Department of Public Welfare		
	—State Employees' Retirement System		
	—Pennsylvania Municipal Retirement Board		
	—Public School Employees' Retirement System		
	—Pennsylvania Crime Commission		
	—Executive Offices		
Rhode Island	Executive branch agencies	Boats, automobiles, buses and related equipment	—WTO GPA. —DR-CAFTA (except Honduras). —U.S.-Australia FTA. —U.S.-Chile FTA. —U.S.-Morocco FTA. —U.S.-Singapore FTA.
South Dakota	Central Procuring Agency (including universities and penal institutions)	Beef	—WTO GPA. —DR-CAFTA. —U.S.-Australia FTA. —U.S.-Chile FTA. —U.S.-Morocco FTA. —U.S.-Singapore FTA.
Tennessee	Executive branch agencies	Services; construction	—WTO GPA-U.S.-Australia FTA. —U.S.-Chile FTA. —U.S.-Singapore FTA.
Texas	Texas Building and Procurement Commission		—WTO GPA. —DR-CAFTA. —U.S.-Australia FTA. —U.S.-Chile FTA. —U.S.-Morocco FTA. —U.S.-Peru TPA.

			—U.S.-Singapore FTA.
Utah	Executive branch agencies		—WTO GPA. —DR-CAFTA (except Honduras).
			—U.S.-Australia FTA.
			—U.S.-Chile FTA.
			—U.S.-Morocco FTA.
			—U.S.-Peru TPA.
			—U.S.-Singapore FTA.
Vermont	Executive branch agencies		—WTO GPA. —DR-CAFTA.
			—U.S.-Australia FTA.
			—U.S.-Chile FTA.
			—U.S.-Morocco FTA.
			—U.S.-Singapore FTA.
Washington	Executive branch agencies, including: —General Administration. —Department of Transportation. —State Universities.	Fuel; paper products; boats; ships; and vessels	—WTO GPA. —DR-CAFTA. —U.S.-Australia FTA. —U.S.-Chile FTA. —U.S.-Morocco FTA. —U.S.-Singapore FTA.
West Virginia			—U.S.-EC Exchange of Letters (applies to EC Member States and only where the State considers out-of-State suppliers).
Wisconsin	Executive branch agencies, including: —Department of Administration. —State Correctional Institutions. —Department of Development. —Educational Communications Board. —Department of Employment Relations. —State Historical		—WTO GPA. —U.S.-Chile FTA. —U.S.-Singapore FTA.

	<p>Society.                  —Department of Health and Social Services.                  —Insurance Commissioner.                  —Department of Justice.                  —Lottery Board.                  —Department of Natural Resources.                  —Administration for Public Instruction.                  —Racing Board.                  —Department of Revenue.                  —State Fair Park Board.                  —Department of Transportation.                  —State University System.</p>		
Wyoming	<p>—Procurement Services Division                  —Wyoming Department of Transportation.                  —University of Wyoming.</p>	Construction-grade steel (including requirements on subcontracts); motor vehicles; coal	<p>—WTO GPA.                  —DR-CAFTA.                  —U.S.-Australia FTA.                  —U.S.-Chile FTA.                  —U.S.-Morocco FTA.                  —U.S.-Singapore FTA.</p>
Other sub-federal entities	Entities covered	Exclusions	Relevant international agreements
Puerto Rico	<p>—Department of State                  —Department of Justice.</p>	Construction services	<p>—DR-CAFTA.                  —U.S.-Peru TPA.</p>
	—Department of the Treasury.	—Department of Economic Development and Commerce	
	—Department of Labor and Human Resources		
	—Department of Natural and Environmental Resources		

	—Department of Consumer Affairs		
	—Department of Sports and Recreation		
Port Authority of New York and New Jersey		Restrictions attached to Federal funds for airport projects; maintenance, repair and operating materials and supplies	—WTO GPA (except Canada). —U.S.-Chile FTA. —U.S.-Singapore FTA.
Port of Baltimore		Restrictions attached to Federal funds for airport projects	—WTO GPA (except Canada). —U.S.-Chile FTA. —U.S.-Singapore FTA.
New York Power Authority		Restrictions attached to Federal funds for airport projects; conditions specified for the State of New York	—WTO GPA (except Canada). —U.S.-Chile FTA. —U.S.-Singapore FTA.
Massachusetts Port Authority			U.S.-EC Exchange of Letters (applies to EC Member States and only where the Port Authority considers out-of-State suppliers).
Boston, Chicago, Dallas, Detroit, Indianapolis, Nashville, and San Antonio			U.S.-EC Exchange of Letters (only applies to EC Member States and where the city considers out-of-city suppliers).
Other entities	Entities covered	Exclusions	Relevant international agreements
Rural Utilities Service (waiver of Buy American restriction on financing for all power generation projects)	Any recipient		—WTO GPA. —DR-CAFTA. —NAFTA. —U.S.-Australia FTA. —U.S.-Bahrain FTA.
			—U.S.-Chile FTA.
			—U.S.-Morocco FTA.
			—U.S.-Oman FTA.
			—U.S.-Peru TPA.
			—U.S.-Singapore FTA.

Rural Utilities Service (waiver of Buy American restriction on financing for telecommunications projects)	Any recipient		—NAFTA. —U.S.-Israel FTA.
U.S. Department of Agriculture, Rural Utilities Services, <i>Water and Waste Disposal Programs</i> (exclusion of Canadian iron, steel and manufactured products from domestic purchasing restriction in Section 1605 of American Recovery and Reinvestment Act of 2009)	Any recipient		U.S.-Canada Agreement.
U.S. Department of Agriculture, Rural Housing Service, <i>Community Facilities Program</i> (exclusion of Canadian iron, steel and manufactured products from domestic purchasing restriction in Section 1605 of American Recovery and Reinvestment Act of 2009)	Any recipient		U.S.-Canada Agreement.
U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, <i>Energy Efficiency and Conservation Block Grants</i> (exclusion of Canadian iron, steel and manufactured products from domestic purchasing restriction in Section 1605 of American Recovery and Reinvestment Act of 2009)	Any recipient		U.S.-Canada Agreement.
U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, <i>State Energy Program</i> (exclusion of Canadian iron, steel and manufactured products from domestic purchasing restriction in Section 1605 of American Recovery and Reinvestment Act of 2009)	Any recipient		U.S.-Canada Agreement.

(ARRA)			
U.S. Department of Housing and Urban Development, Office of Community Planning and Development, <i>Community Development Block Grants Recovery (CDBG-R)</i> (exclusion of Canadian iron, steel and manufactured products from domestic purchasing restriction in Section 1605 of American Recovery and Reinvestment Act of 2009)	Any recipient		U.S.-Canada Agreement.
U.S. Department of Housing and Urban Development, Office of Public and Indian Housing, <i>Public Housing Capital Fund</i> (exclusion of Canadian iron, steel and manufactured products from domestic purchasing restriction in Section 1605 of American Recovery and Reinvestment Act of 2009)	Any recipient		U.S.-Canada Agreement.
U.S. Environmental Protection Agency for projects funded by reallocated ARRA funds where the contracts are signed after February 17, 2010 (exclusion of Canadian iron, steel and manufactured products from domestic purchasing restriction in Section 1605 of American Recovery and Reinvestment Act of 2009)	Any recipient		U.S.-Canada Agreement.

*General Exceptions:* The following restrictions and exceptions are excluded from U.S. obligations under international agreements:

1. The restrictions attached to Federal funds to States for mass transit and highway projects.
2. Dredging.

*The World Trade Organization Government Procurement Agreement (WTO GPA) Parties:* 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.

*The Free Trade Agreements and the respective Parties to the agreements are:*

- (1) Dominican Republic-Central America-United States Free Trade Agreement (DR–CAFTA): Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, and Nicaragua;
- (2) North American Free Trade Agreement (NAFTA): Canada and Mexico;
- (3) United States-Australia Free Trade Agreement (U.S.-Australia FTA);
- (4) United States-Bahrain Free Trade Agreement (U.S.-Bahrain FTA);
- (5) United States-Chile Free Trade Agreement (U.S.-Chile FTA);
- (6) United States-Israel Free Trade Agreement (U.S.-Israel FTA);
- (7) United States-Morocco Free Trade Agreement (U.S.-Morocco FTA);
- (8) United States-Oman Free Trade Agreement (U.S.-Oman FTA);
- (9) United States-Peru Trade Promotion Agreement (U.S.-Peru TPA); and
- (10) United States-Singapore Free Trade Agreement (U.S.-Singapore FTA).

*United States-European Communities Exchange of Letters (May 30, 1995) (U.S.-EC Exchange of Letters )* applies to EC Member States: 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.

*Agreement between the Government of Canada and the Government of the United States of America on Government Procurement (Feb. 10, 2010) (U.S.-Canada Agreement):* Applies only to Canada.

[75 FR 14324, Mar. 25, 2010]

**Subpart C—Wage Rate Requirements Under Section 1606 of the American Recovery and Reinvestment Act of 2009**



**§ 176.180 Procedure.**



The award official shall insert the standard award term in this Subpart in all awards funded in whole or in part with Recovery Act funds.

**§ 176.190 Award term—Wage rate requirements under Section 1606 of the Recovery Act.**



When issuing announcements or requesting applications for Recovery Act programs or activities that may involve construction, alteration, maintenance, or repair the agency shall use the award term described in the following paragraphs:

- (a) Section 1606 of the Recovery Act requires that all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to the Recovery Act shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the