



HTP
April 26, 2010

Statement of Compliance with ARRA Buy American Provisions

According to research by HTP, we have found that the:

HTP-VHP Evacuated Tube Heat Pipe Collector,

Is compliant with the buy American provision of the American Recovery and Reinvestment Act of 2009 as provided in 48 CFR

As of April 26th, 2010 we have found that there are no equivalent products to the HTP-VHP manufactured in the United States. In section 1605, part 25.603 (a) (1), the ARRA provides a clear exception to the application of the buy American provision for this exact situation:

25.603 Exceptions.

(a) When one of the following exceptions applies, the contracting officer may allow the contractor to incorporate foreign construction materials without regard to the restrictions of section 1605 of the Recovery Act or the Buy American Act:

(1) Nonavailability. The head of the contracting activity may determine that a particular construction material is not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality. The determinations of nonavailability of the articles listed at 25.104(a) and the procedures at 25.103(b)(1) also apply if any of those articles are acquired as construction materials. [emphasis added]

HTP has conducted a thorough survey of the market and has enquired with all companies making buy American claims for evacuated tube heat pipe collectors. As of April 26, 2010, there are no domestic companies who can guarantee delivery of domestically manufactured evacuated tube heat pipe solar collectors at any specific set date. Until domestically manufactured evacuated tube heat pipe collectors can be guaranteed for delivery, the nonavailability exception in part 25.603 (a) (1), prevents the buy American provision of the ARRA to apply to commercial projects for this product.

Best Regards,
The HTP Team



**Reference: The Buy American Provision of the ARRA,
As Referred to in Statement of Compliance**

Section 1605 of the American Recovery and Reinvestment Act:

25.601 Definitions.

As used in this subpart—

Domestic construction material means—

- (1) An unmanufactured construction material mined or produced in the United States; or
- (2) A construction material manufactured in the United States.

Foreign construction material means a construction material other than a domestic construction material.

Manufactured construction material means any construction material that is not unmanufactured construction material.

Recovery Act designated country means a World Trade Organization Government Procurement Agreement country, a Free Trade Agreement country, or a least developed country.

Steel means an alloy that includes at least 50 percent iron, between .02 and 2 percent carbon, and may include other elements.

Unmanufactured construction material means raw material brought to the construction site for incorporation into the building or work that has not been—

- (1) Processed into a specific form and shape; or
- (2) Combined with other raw material to create a material that has different properties than the properties of the individual raw materials.

25.602 Policy.

Except as provided in 25.603—

(a) None of the funds appropriated or otherwise made available by the Recovery Act may be used for a project for the construction, alteration, maintenance, or repair of a public building or public work (as defined at 22.401) unless—

- (1) The public building or public work is located in the United States; and
- (2) All of the iron, steel, and other manufactured goods used as construction material in the project are produced or manufactured in the United States.

(i) Production in the United States of the iron or steel used as construction material requires that all manufacturing processes must take place in the United States, except metallurgical processes involving refinement of steel additives. These requirements do not apply to steel or iron used as components or subcomponents of other manufactured construction material.

(ii) There is no requirement with regard to the origin of components or subcomponents in other manufactured construction material, as long as the manufacture of the construction material occurs in the United States.

(b) Use only domestic unmanufactured construction material, as required by the Buy American Act.