

Congress of the United States

Washington, DC 20515

June 19, 2009

Director Peter Orszag
The Office of Management and Budget
725 17th Street, NW
Washington, DC 20503

Dear Director Orszag:

We ask that as you write final guidance for the American Recovery and Reinvestment Act (ARRA), you minimize potential unintended consequences of Section 1605, the “Buy American” provision. As members of the New Democrat Coalition’s trade taskforce, we take seriously our pledge to the G20 “to do whatever is necessary to promote global trade and investment and reject protectionism.” Robust trade with strategic partners like Canada, Mexico, and the European Union will help our economy recover faster. We would like to highlight four areas where we see that Section 1605 could hurt American workers.

First, we are concerned that Section 1605 may prompt our trade agreement partners to restrict U.S. exports. The Federation of Canadian Municipalities, the representative body of nearly all Canadian municipal governments, is considering just that, reviewing whether to stop procurement from countries that exclude Canadian exports. Our water infrastructure manufacturers alone stand to lose over \$2 billion annually. To prevent this, final Section 1605 rules should require state and municipal governments to follow the same international procurement agreements to which our federal government is party.

We also support a definition of “manufactured good” and “component” that reflects how integrated global supply chains create U.S. jobs. Many U.S. corporations have final production facilities abroad that use mostly U.S. inputs. Conversely, domestic manufacturers often employ thousands in final production facilities, but use largely foreign inputs. One Pennsylvania steel plant recently furloughed nearly 500 workers because its foreign inputs did not meet initial ARRA guidance. That should not happen again. We would also recommend that commercial items be exempt to ensure that supply chains do not need to be altered for government sales.

Further, in addition to creating simple and expansive waivers, OMB should provide waivers to projects if only one domestic producer exists for a specific implement. Domestic supplier monopolies threaten to balloon project costs, limiting the reach and effectiveness of ARRA project. In the worst cases, monopolies will reward bad actors.

Lastly, we strongly favor a Section 1605 administrative process that quickly funds ARRA projects. “Buy American” rules should be simple and clear, applying equally to federal, state, and local governments. Recovery projects would benefit if project contractors can source the same materials across various jurisdictions. Each layer of complexity in ARRA implementation challenges the effectiveness of the Act.

Beyond developing final rules for Section 1605, we suggest that OMB publicize the current exemptions and areas where products and components are not covered by the "Buy American" requirement for the public. Many recent reports have shown that there is a high degree of confusion, causing government contracting officers and companies to be overly cautious and narrow.

Thank you for your consideration of our views on ARRA implementation. We look forward to working with you on this and other issues to quickly and effectively implement ARRA.

Sincerely,



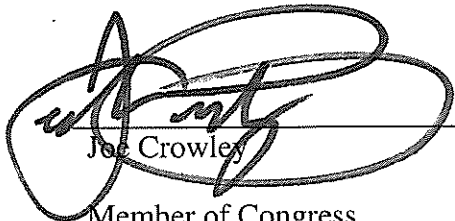
Ellen Tauscher

Member of Congress



Adam Smith

Member of Congress



Joe Crowley

Member of Congress



Ron Kind

Member of Congress



Melissa Bean

Member of Congress



Allyson Schwartz

Member of Congress



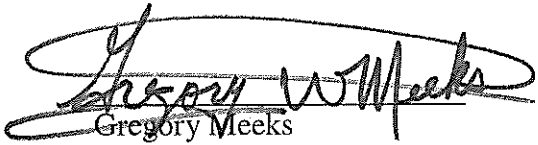
Rick Larsen

Member of Congress



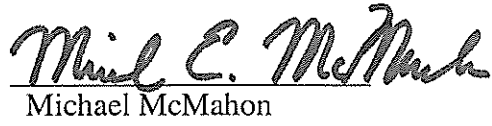
Jim Moran

Member of Congress



Gregory Meeks

Member of Congress



Michael McMahon

Member of Congress