

*** USE ON ALL PROJECTS WITH ARRA FUNDING. ***

(ARRA, 6/01/09)

For bid open date of June 12, 2009 and later

AMERICAN RECOVERY AND REINVESTMENT ACT REQUIREMENTS:

1.0 General:

The American Recovery and Reinvestment Act of 2009, hereinafter referred to as the Recovery Act (RA), provides the State Departments of Transportation with funding for highway infrastructure development. With these funds comes an increased level of reporting and oversight. The states are responsible for reporting project, jobs, and finance data for all Recovery Act projects, including those managed by their funding recipients, such as local governments, and will need to obtain certain information from their contractors, consultants, and other funding recipients in order to fulfill this obligation. Funding from the Recovery Act will expire on September 30, 2015.

The Federal Highway Administration (FHWA) requires monthly reporting of this data to ensure timely verification of the information. In addition, employment data are required on a monthly basis for the employment modeling that the FHWA is required to provide.

By submission of a proposal on an RA-funded project, the bidder agrees to be bound by the conditions and reporting requirements specified herein.

2.0 Workforce Reporting:

The contractor shall report their own workforce and shall also assure that all subcontractors report their workforce for the project as part of the weekly electronic payroll submittals required in Subsection 109.06(C) of these special provisions.

The contractor's and subcontractor's workforce shall include direct employees actively engaged in the project on the jobsite, or at the project office, including those classifications not subject to the Davis-Bacon prevailing wage rates. The workforce to be reported shall also include any engineering personnel, inspectors, owner/operators, quality control and survey personnel, sampling and testing technicians, and lab technicians performing work directly in support of the RA-funded project, but shall not include material suppliers.

The report shall include any work occurring after the execution of the contract.

Additional guidance and a sample workforce report form are included for reference as Appendix R. However, the information required for the payroll submittals will fulfill the reporting requirements specified herein.

2.01 Liquidated Damages:

If, by the 14th of the month, the contractor and its subcontractors have not provided all required workforce information with the weekly payroll submittals for the preceding month, the Department will deduct \$1,000.00 for each delinquent report, whether from the prime contractor or any of its subcontractors, from the progress payment for the current month, not as a penalty but as liquidated damages. If, by the 14th of the following month, the required workforce information has still not been provided, the Department will deduct an additional \$1,000.00 for each delinquent report. Such deductions will continue for each subsequent month that the contractor or its subcontractors fail to provide the required workforce information.

3.0 Reporting of DBE Commitment and DBE Subcontractor Payments:

3.01 DBE Commitment:

The contractor shall report its DBE commitment, as a percentage of its total bid amount, within five days after the bid opening. The percent DBE commitment shall be provided by e-mail to the Department's Civil Right's office. The e-mail address is egene@azdot.gov.

3.02 DBE Subcontractor Payment Reporting:

In addition to the workforce reporting requirements specified in Section 2.0 above, the contractor shall report monthly payments made to DBE subcontractors for labor, equipment, and materials. The contractor shall provide all such required information for the current month by the 5th of the following month. DBE subcontractor definitions and reporting requirements are specified elsewhere in the special provisions. Contractors shall report the required information electronically through the Department's web-based payment tracking system.

3.03 Liquidated Damages:

If, by the 5th of the month, the contractor has failed to report its payments to DBE subcontractors for the previous month, or has failed to report the percent DBE commitment specified in Section 3.01, the Department will deduct \$1,000.00 from the progress payment for the current month, not as a penalty but as liquidated damages. If, by the 5th of the following month, both the DBE payment information for the previous month and the required percent DBE commitment have still not been provided, the Department will deduct an additional \$1,000.00. Such deductions will continue for each subsequent month that the contractor fails to provide both the DBE payment information for the previous month and the percent DBE commitment required in Section 3.01.

4.0 Cumulative Application of Liquidated Damages:

Liquidated damages specified herein in Sections 2.01 and 3.03 shall be applied separately, and shall be in addition to the remedial measures specified in Subsection 109.06(C) of these special provisions for deficient payroll documents, and all other retention or liquidated damages provided for elsewhere in the contract.

5.0 Notification of the Authority of the Comptroller General:

Section 902 of the Recovery Act requires that each contract using RA funds provide the U.S. Comptroller General and his representatives the authority to:

- (1) examine any records of the contractor or any of its subcontractors, or any State or local agency administering such contract, that directly pertain to, and involve transactions relating to, the contract or subcontract; and
- (2) interview any officer or employee of the contractor or any of its subcontractors, or of any State or local government agency administering the contract, regarding such transactions.

Accordingly, the Comptroller General and his representatives shall have the authority and rights as provided under Section 902 of the Recovery Act with respect to this contract, which is funded with funds made available under the Recovery Act. Section 902 further states that nothing in this section shall be interpreted to limit or restrict in any way any existing authority of the Comptroller General.

6.0 Notification of the Authority of the Inspector General:

Section 1515(a) of the Recovery Act provides authority for any representatives of the Inspector General to examine any records or interview any employee or officers working on this contract. The contractor is advised that representatives of the inspector general have the authority to examine any record and interview any employee or officer of the contractor, its subcontractors or other firms working on this contract. Section 1515(b) further provides that nothing in this section shall be interpreted to limit or restrict in any way any existing authority of an inspector general.