

BULLETIN 3.5 COMPLIANCE
(ARRA)

This specification contains provisions applicable to Vermont Agency of Transportation Construction Contracts as outlined in the Agency of Administration Bulletin No. 3.5, Contracting Procedures, dated July 15, 2008, that are not otherwise included in the Contract.

The following provisions are based on, or adopted from, provisions found in Appendix II - Attachment B: Payment Provisions.

1. AMERICAN RECOVERY & REINVESTMENT ACT (ARRA or the Act)

The funds used to support this Contract, in full or in part, are provided through the federal ARRA; this Contract therefore is subject to payment criteria and specific reporting requirements mandated by the Act. A periodic report, certified by an authorized agent of the Contractor, utilizing the form provided by the State of Vermont and included in this proposal, shall be submitted as required. Failure to submit timely, accurate and fully executed reports will result in a mandate to return to the State funds already disbursed under this Contract, or the withholding of current and future payments under this Contract until such time as the reporting irregularities are resolved to the State's satisfaction.

For subrecipients who report awards of federal funds to the State, said subrecipient agrees to include information of ARRA funding separately from other federal awards reported on their Statement of Expenditure of Federal Awards (SEFA).

The parties to this Contract are further bound by the Act that they shall promptly refer to an appropriate federal inspector general any credible evidence that a principal, employee, agent, contractor, subrecipient, or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving the ARRA funds used to support this Contract.

2. ENTIRE AGREEMENT

This Contract represents the entire agreement between the parties on the subject matter. All prior agreements, representations, statements, negotiations, and understandings shall have no effect.

3. APPLICABLE LAW

This Contract will be governed by the laws, whether statutory or case law, of the State of Vermont.

4. APPROPRIATIONS

If this Contract extends into more than one fiscal year of the State (July 1 to June 30), and if appropriations are insufficient to support this Contract, the State may cancel the Contract at the end of the fiscal year, or otherwise upon the expiration of existing appropriation authority.

5. NO EMPLOYEE BENEFITS FOR CONTRACTOR

The Contractor understands that the State will not provide any individual retirement benefits, group life insurance, group health and dental insurance, vacation or sick leave, workers compensation or other benefits or services available to State employees, nor will the State withhold any state or federal taxes. The Contractor understands that all tax returns required by the Internal Revenue Code and the State of Vermont, including but not limited to income, withholding, sales and use, and rooms and meals, must be filed by the Contractor, and information as to Contract income will be provided by the State of Vermont to the Internal Revenue Service and the Vermont Department of Taxes.

6. INDEPENDENCE

The Contractor will act in an independent capacity and not as officers or employees of the State.

7. RECORDS AVAILABLE FOR AUDIT

The Contractor will maintain all books, documents, payroll papers, accounting records and other evidence pertaining to costs incurred under this Contract and make them available at reasonable times during the period of the Contract and for three years thereafter for inspection by any authorized representatives of the State or Federal Government. If any litigation, claim, or audit is started before the expiration of the three year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved. The State, by any authorized representative, shall have the right at all reasonable times to inspect or otherwise evaluate the work performed or being performed under this Contract.

8. FAIR EMPLOYMENT PRACTICES

Contractor agrees to comply with the requirement of Title 21 V.S.A. Chapter 5, Subchapter 6, relating to fair employment practices, to the full extent applicable.

9. SET OFF

The State may set off any sums which the Contractor owes the State against any sums due the Contractor under this Contract, including any costs the State incurs due to the Contractor's noncompliance with this Contract; provided, however, that any set off of amounts due the State of Vermont as taxes shall be in accordance with the procedures more specifically provided hereinafter.

Any amount deducted from payment due to the Contractor shall be deemed to have been paid to the Contractor for purposes of payment obligations under Subsection 109.08 PARTIAL AND FINAL PAYMENTS.

10. TAXES DUE TO THE STATE

a. Contractor understands and acknowledges responsibility for compliance with State tax laws, including income tax withholding for employees performing services within the State, payment of use tax on property used within the State, corporate and/or personal income tax on income earned within the State.

- b. By signing this Contract, the Contractor certifies under the pains and penalties of perjury that, as of the date the Contract is signed, the Contractor is in good standing with respect to, or in full compliance with, a plan to pay any and all taxes due the State of Vermont.
- c. Contractor understands that final payment under this Contract may be withheld if the Commissioner of Taxes determines that the Contractor is not in good standing with respect to or in full compliance with a plan to pay any and all taxes due to the State of Vermont.
- d. Contractor also understands the State may set off taxes (and related penalties, interest and fees) due to the State of Vermont, but only if the Contractor has failed to make an appeal within the time allowed by law, or an appeal has been taken and finally determined and the Contractor has no further recourse to contest the amounts due.

11. CHILD SUPPORT PAYMENTS

By signing the Contract the Contractor certifies, as of the date of the Contract is signed, that he/she is (a) not under any obligation to pay child support; or (b) is under such an obligation and is in good standing with respect to that obligation; or (c) has agreed to a payment plan with the Vermont Office of Child Support Services and is in full compliance with that plan. If the Contractor is a sole proprietorship, the Contractor's statement applies only to the sole proprietor. If the Contractor is a partnership, the Contractor's statement applies to all the general partners with a permanent residence in Vermont. If the Contractor is a corporation, this provision does not apply.

12. NO GIFTS OR GRATUITIES

Contractor shall not give title or possession of any thing of substantial value (including property, currency, travel and/or education programs) to any officer or employee of the State during the term of this Contract.

The following provisions are based on, or adopted from, provisions found in Appendix II - Attachment D: Other Contract Provisions.

13. AVAILABILITY OF FEDERAL FUNDS

If the Contract is funded in whole or in part by federal funds, and the federal funds supporting this Contract become unavailable or are reduced, the State may cancel this Contract immediately, and the State shall have no obligation to pay the Contractor from State revenues.

14. CONTRACTORS' LIENS

Contractor will discharge any and all Contractors' or mechanics' liens imposed on property of the State through the actions of subcontractors or suppliers.