**TERMS FOR ALL ARRA CONTRACTORS (SUB-RECIPIENTS OR VENDORS)**

This Contract Attachment is being provided to all Contract recipients of ARRA funds to ensure that you have notice of key requirements upon which the receipt of ARRA funding is conditioned. You will be informed by your contracting Department if you will be receiving ARRA funds and whether under each contract you will be considered a “Sub-recipient” or a “Vendor”. ARRA funding is considered “one-time” funding and will not be continued or replaced with appropriated or other funding once the ARRA contract portions are expended. These terms are already incorporated by reference through the federal grant or contract award from your contracting Department and are in addition to any performance, reporting or other terms already provided under your award and contract. ***Documentation of actual receipt of this attachment by the contractor contract manager or an authorized signatory shall be sufficient to bind the contractor to the terms of this attachment.***

**RECORDKEEPING AND ACCESS TO RECORDS**

Contractor and subcontractor recipients of ARRA funds, must maintain records, books, files and other data as specified in a Contract and in such detail to support compliance with contract terms, attainment of performance success criteria or performance measurements and successful completion of all contract performance requirements to properly substantiate claims for payment and that identify adequately the use of ARRA funds, which must be maintained for seven (7) years beginning the day after the final payment of ARRA funds or after the resolution of any litigation, claim, negotiation, audit or other inquiry involving the Contract. Transparency requirements under state and federal law (including Section 902) require a contractor to provide access to all such records and data to the contracting Department, the Executive Office for Administration and Finance, the Offices of the Attorney General, State Auditor, Inspector General or any state or federal compliance officer or inspector general assigned to ARRA reviews. Access to such records, including on-site reviews, interviews of officers and employees, and reproduction of such records at a reasonable expense, shall be provided during the Contractor’s regular business hours and upon reasonable prior notice. **All contractors, whether deemed sub-recipients or vendors, must be prepared to provide any documents, records, data or other proof of performance, or related to their business activities that are paid for with ARRA funds.**

**ENFORCEABILITY**

In addition to all other remedies available to the Commonwealth under applicable state and federal laws, in the event a Contractor or their subcontractors fail to comply with contract terms or with applicable federal and state requirements governing the use of ARRA funding, the Commonwealth may withhold or suspend awards or recover any funds awarded under a contract following an audit by the Department.

**FALSE CLAIMS OR PUBLIC CONCERNS**

A Contractor shall promptly refer to its contracting Department any public concerns raised to the Contractor about the use of ARRA funds (Section 1514), or credible evidence that a principal, employee, agent, subcontractor or other person has committed a false claim (e.g., falsification of time sheets, reports or invoices) under the False Claims Act or has committed a criminal or civil violation pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving ARRA funds. The Contractor acknowledges that Section 1865 ofARRA, amends Section 257 of the Trade Act of 1974 increasing false claims penalties to allow imprisonment up to 2 years, or fines or both.

**REQUIRED JOB POSTINGS at** [**www.mass.gov/jobquest**](http://www.mass.gov/jobquest)

Since the primary purpose of ARRA is retention and creation of new jobs, the Governor’s Economic Recovery Mobilization Act requires organizations and entities receiving full or partial ARRA funding to post job openings at JobQuest (the state’s job bank) at <www.mass.gov/jobquest>. This website has instructions for posting jobs and managing job orders. A Business Service Representative located at one of the 37 Massachusetts One-Stop Career Centers statewide (at [www.mass.gov/careercenters](https://www.mass.gov/how-to/find-a-massachusetts-career-center) or the Help Desk at 1-888-578-6599) can assist you with posting job openings and how to recruit applicants.

**APPRENTICE REQUIREMENT**

The Governor’s Economic Recovery Mobilization Act requires 20% of the work hours on all ARRA funded public works projects with a contract award over $1 million to be performed by apprentices in bona fide Division of Apprenticeship Training (DAT) approved apprentice training program. This requirement applies to hourly wage employees employed on the project site, employed by the contractor or a subcontractor and subject to prevailing wage. Contact the contracting Department issuing ARRA funds and DAT at 617-626-5409 for implementation assistance.

**EMPLOYEE WHISTLEBLOWER RIGHT AND PROTECTIONS**

Section 1553 of ARRA provides protections for employees who make specific disclosures (whistleblowers) about uses of ARRA funds. Any contractor employer receiving ARRA funds must print and post the following poster or a similar notice to employees of section 1553 and shall include the substance of this clause in all subcontracts. <http://www.oig.dol.gov/recovery/Section1553WhistleblowerProvisions.pdf>. Whistleblower information can be found at: http://www.recovery.gov/CONTACT/REPORTFRAUD/Pages/WhistleBlowerInformation.aspx.

**SUB-RECIPIENT TERMS**

A sub-recipient is a non-federal entity that expends Federal awards received from another entity to carry out a Federal program but does not include an individual who is a beneficiary of such a program. Specifically, sub-recipients are non-Federal entities that are awarded Recovery funding through a legal instrument from the prime recipient to support the performance of any portion of the substantive project or program for which the prime recipient received the Recovery funding. Additionally, the terms and conditions of the Federal award are carried forward to the sub-recipient. Sub-recipient activities will be monitored as necessary to ensure that Federal awards are used for authorized purposes in compliance with laws, regulations, and the provisions of contracts or grant agreements and that performance goals are achieved. Sub-recipients receiving in the aggregate, $500,000 or more in Federal awards during the sub-recipient's fiscal year must meet the audit requirements for that fiscal year, and are subject to the Single Audit. In addition to all of the OMB A-133 requirements, sub-awards made from the federal stimulus funds (ARRA) are subject to Buy-American and compliance with the Davis-Bacon Act of 1931. Under ARRA, these requirements pass through to sub-recipients who may have previously been exempt from compliance.

**ADDITIONAL SUB-RECIPIENT REPORTING REQUIREMENTS**

In addition to general performance reporting under the Contract, OMB requirements for ARRA transparency and reporting are also passed down to sub-recipients. The Commonwealth as prime must assure that the following is provided and subsequently recorded in the state’s account system, MMARS:

* The DUNS# of the sub-recipient, their legal name, address and type (Prime will obtain from VCUST)
* The sub-award number (Prime will obtain from encumbrance document ID)
* The total value of the sub-award/contract (Prime will obtain from contract document recorded on the encumbrance)
* The sub-award date (Prime will obtain from date on the encumbrance)
* The sub-award grant period (Prime will obtain from service begin and end dates on the encumbrance)
* The primary performance location/area of benefit (Prime will obtain from the Location Code recorded on the encumbrance and/or payment request transactions)
* Sub-recipients will be required to report all vendor payments they make with ARRA funds. Detail for these payments must include either the payee vendor DUNS number OR the vendor name and the zip code of the vendor headquarters (**Sub-recipient will be notified by Prime on how to report**)
* Sub-recipients must segregate ARRA funds from other sources of funding and shall not co-mingle ARRA funds with other funds or use ARRA funds for any purpose other than for approved ARRA purposes outlined in a contract.
* Sub-recipients may be also required to report the names and total compensation for the five most highly compensated officers in their organization if:

(1) the recipient in its preceding fiscal year received— (a) 80 percent or more of its annual gross revenues in Federal awards; and (b) $25,000,000 or more in annual gross revenues from Federal awards; and

(2) the public does not have access to information about the compensation of the senior executives of the entity through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986 [26 USC § 6104].

‘‘Total compensation’’ means the cash and noncash dollar value earned by the executives during the sub-recipient’s past fiscal year of the following (for more information see 17 CFR 229.402(c)(2)):

(i). Salary and bonus.

(ii). Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with FAS 123R.

(iii). Earnings for services under non-equity incentive plans. Does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.

(iv). Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.

(v). Above-market earnings on deferred compensation which are not tax qualified.

(vi). Other compensation. For example, severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property if the value for the executive exceeds $10,000.

**(Sub-recipient will be notified by Prime on how to report on top five highly compensated officers.)**

**VENDOR TERMS**

A Vendor is defined as a dealer, distributor, merchant or other seller providing goods or services that are required for the conduct of a Federal program. Prime recipients or sub-recipients may purchase goods or services needed to carry out the project or program from vendors. Vendors are not awarded funds by the same means as sub-recipients and are not subject to the terms and conditions of the Federal financial assistance award. As outlined above, vendor payments will be reported with the vendor DUNS number OR the vendor name and the zip code of the vendor headquarters. In addition to any other requirements, sub-awards made to vendors from ARRA funds are subject to Buy-American requirements for construction material Section 1605 requiring that ARRA projects for the construction, alteration, maintenance, or repair of a public building or public work use American iron, steel, and manufactured goods in the project unless one of the specified exemptions applies, in a manner consistent with U.S. obligations under international agreements. Further Section 1606 of the Recovery Act requires compliance with the Davis-Bacon Act of 1931 that all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part with ARRA funds shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code. These requirements pass through to vendors and their sub-contractors, if any, who may have previously been exempt from compliance.