

**REQUIRED CONTRACT PROVISIONS
AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009
IMPLEMENTATION OF SECTION 902 AND 1515(b)**

This Project is funded partially or wholly by funds appropriated to the state of Kansas under the American Recovery and Reinvestment Act of 2009 (ARRA or Recovery Act). The Recovery Act requires Recipients of Recovery Act funds to allow representatives of the United States Comptroller General and Office of Inspector General to examine records and interview persons of firms working on Contracts that use Recovery Act Funds. Recipients of Recovery Act funds include the Kansas Department of Transportation (KDOT); local public authorities (LPA's) such as Cities, Counties, and Metropolitan Planning Organizations; and other transit agencies.

I. DEFINITIONS: For purposes of this Required Contract Provision only,

a. The term Contract includes:

- An agreement between the Secretary and another Recipient of Recovery Act funds.
- A construction contract. The term construction contract means an agreement to perform physical construction of a project using Recovery Act funds.
- A consulting contract. The term consulting contract means:
 - An agreement to perform Design Services using Recovery Act funds. Design Services include preliminary engineering and technical services or designer construction services such as drawing reviews and plan revisions during construction.
 - An agreement to perform Inspection Services using Recovery Act funds. Inspection Services include engineering and administrative supervision of a construction contract.
 - An agreement to perform Inspection Services for a construction contract that uses Recovery Act funds, even though the Inspection Services are not being paid from Recovery Act funds.

b. The term Contractor includes:

- An entity contracting with a Recipient of Recovery Act funds to complete a construction contract.
- An entity contracting with a Recipient of Recovery Act funds to perform a consulting contract.

c. The term subcontractor includes:

- An entity contracting with a Contractor as defined above;
- An entity contracting with a subcontractor or lower-tier subcontractor to perform part of the physical work for the construction contract or to perform engineering or other technical services for the consulting contract;
- An entity contracting with a Contractor, a subcontractor, or a lower-tier subcontractor to supply materials needed to fulfill the construction contract or the consulting contract.

II. RECOVERY ACT SECTION 902. COMPTROLLER GENERAL'S AUTHORITY.

Section 902 of the American Recovery and Reinvestment Act (ARRA or Recovery Act) of 2009 requires that each contract awarded using ARRA funds must include a provision that provides the U.S. Comptroller General and his representatives with the authority to:

“(1) to 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) to 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 ARRA with respect to this contract, which is funded with funds made available under the ARRA. 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.

III. RECOVERY ACT SECTION 1515(b) OIG'S AUTHORITY.

Section 1515(b) of the ARRA or Recovery Act provides that for "each contract or grant awarded using ARRA funds, any representative of an appropriate inspector general appointed under section 3 or 8G of the Inspector General Act of 1978 (5 U.S.C. App.), has the authority to:

(1) to examine any records of the contractor or grantee, any of its subcontractors or subgrantees, or any State or local agency administering such contract, that pertain to, and involve transactions relating to, the contract, subcontract, grant, or subgrant; and

(2) to interview any officer or employee of the contactor, [subcontractors], grantee, subgrantee, or any [state or local government] agency [administering the contract], regarding such transactions."

Accordingly, the Inspector General and any representatives of the Inspector General shall have the authority and rights as provided under Section 1515(b) of the ARRA with respect to this contract, which is funded with funds made available under the ARRA. Section 1515(b) further states that nothing in this section shall be interpreted to limit or restrict in any way any existing authority of an inspector general.

IV. AUDITS.

Nothing in this Required Contract Provision limits the existing authority of the Federal Highway Administration or any other governmental entity to audit the contract.

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