

DRAFT
FAA Acquisition Management System Clauses

Change 52 – March 2009

This document transmits changes to FAA Acquisition Management System clauses and provisions. Unless otherwise specified, these changes are effective March 6, 2009 and apply to all screening information requests and contracts issued after March 6, 2009.

A. CLAUSES REVISED

None.

B. CLAUSES ADDED

- 3.17-1 American Recovery and Reinvestment Act-Reporting Requirements
- 3.17-2 Authority of the Inspector General Relating to Contracts Using American Recovery and Reinvestment Act Funding
- 3.6.4-18 Certification Regarding Steel and Manufactured Products

C. CLAUSES REMOVED

None.

D. PRESCRIPTIONS CHANGED/ADDED

- 3.17-1 American Recovery and Reinvestment Act-Reporting Requirements
- 3.17-2 Authority of the Inspector General Relating to Contracts Using American Recovery and Reinvestment Act Funding
- 3.6.4-18 Certification Regarding Steel and Manufactured Products

E. ATTACHMENT

Text of revised and added clauses attached.

ATTACHMENT

3.17-1 American Recovery and Reinvestment Act-Reporting Requirements (March 2009)

(a) *Definitions.* As used in this clause –

“Contract” means a mutually binding legal relationship obligating the seller to furnish the supplies or services (including construction) and the buyer to pay for them. It includes all types of commitments that obligate the Government to an expenditure of appropriated funds and that, except as otherwise authorized, are in writing. In addition to bilateral instruments, contracts include (but are not limited to) awards and notices of awards; job orders or task letters issued under basic ordering agreements; letter contracts; orders, such as purchase orders, under which the contract becomes effective by written acceptance or performance; and bilateral contract modifications. Contracts do not include grants and cooperative agreements covered by 31 U.S.C. 6301, *et seq.*

“First-tier Subcontract” means a subcontract awarded directly by a Federal government prime contractor funded by the Recovery Act.

"Jobs Created" means an estimate of those new positions created and filled, or previously existing unfilled positions that are filled, as a result of funding by the American Recovery and Reinvestment Act of 2009. This definition covers only positions established in the United States and outlying areas. The number must be expressed as “full-time equivalent” which must include full-time, part-time, temporary, and permanent positions as expressed as a “person-year,” consistent with the contractor’s existing personnel procedures. This includes positions at the prime level, and the prime contractor’s estimate of positions at the first subcontract tier. This estimate should not include estimated impacts on any secondary market jobs created, such as jobs created through the purchase of commercial-off-the-shelf products.

"Jobs retained" means an estimate of those previously existing filled positions that are retained as a result of funding by the American Recovery and Reinvestment Act of 2009. This definition covers only positions established in the United States and outlying areas. The number must be expressed as “full-time equivalent” which must include full-time, part-time, temporary, and permanent positions as expressed as a “person-year,” consistent with the contractor’s existing personnel procedures. This includes positions at the prime level, and the prime contractor’s estimate of positions at the first subcontract tier. This estimate should not include estimated impacts on any secondary market jobs retained, such as jobs created through the purchase of commercial-off-the-shelf products.

“Outlying areas” means commonwealths of Puerto Rico and the Northern Mariana Islands; territories of American Samoa, Guam, and U.S. Virgin Islands; and minor outlying islands of Baker Island, Howland Island, Jarvis Island, Johnston Atoll, Kingman Reef, Midway Islands, Navassa Island, Palmyra Atoll, and Wake Atoll.

“Total Compensation” means the complete pay package of contractor employees, including all forms of money, benefits, services, and in-kind payments, consistent with the regulations of the Securities and Exchange Commission at 17 CCR 229.402.

(b) This contract requires products and services that are funded under the American Recovery and Reinvestment Act of 2009 (Recovery Act). Section 1512(c) of the Recovery Act requires each contractor to report on its use of Recovery Act funds under this contract.

(c) Reporting starts with the first calendar month in which the contractor invoices the Government for work funded by Recovery funds. Reporting is required not later than 10 days after the end of each calendar month. The contractor must report the following information, using the online reporting tool available at _____ ***(as of March 2009, an online reporting tool is not available. In the interim, the contractor shall report required information using the form titled “American Recovery and Reinvestment Act Report for Federal Aviation Administration.” The contractor shall compile data in MS Excel format and shall send via email to: 9-AJF-CWP-StimulusTracking@faa.gov)***

(1) the Government contract or order number.

(2) the amount of recovery funds invoiced by the contractor, cumulative since the beginning of the contract;

(3) a detailed list of all services performed or supplies delivered for which the contractor has invoiced, including –

(i) project title, if any;

(ii) a description of the overall purpose and expected outcomes or results of the contract

(iii) an assessment of the contractor’s progress towards the completion of the overall purpose and expected outcomes or results of the contract (i.e., not started, less than 50% completed, completed 50% or more, or fully completed). This covers the contract (or portion thereof) funded by the Recovery Act.

(iv) an estimate of the number of jobs created by the contractor, in the United States and outlying areas; and

(v) an estimate of the number of jobs retained by the contractor, in the United States and outlying areas. A job cannot be reported as both created and retained.

(4) Names and total compensation of each of the five most highly compensated officers for the calendar year in which the contract is awarded if –

(i) in the contractor’s preceding fiscal year, the contractor received--

(A) 80 percent or more of its annual gross revenues in Federal contracts (and subcontracts), loans, grants (and subgrants) and cooperative agreements; and

(B) \$25,000,000 or more in annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants) and cooperative agreements; and

(ii) the public does not have access to information about the compensation of the senior executives 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.

(5) detailed information on any first-tier subcontract over \$25,000, where the subcontractor is not an individual, awarded by the contractor, funded under the Recovery Act, to include the following:

- (i) Unique identifier (DUNS Number) for the subcontractor receiving the award and of the subcontractor's parent company, if any.
- (ii) Name of the subcontractor.
- (iii) Amount of the subcontract award.
- (iv) Date of the subcontract award.
- (v) The applicable North American Industry Classification System code.
- (vi) Funding agency.
- (vii) A description of the product or service to be provided under the subcontract, including the overall purpose and expected outcomes or results of the subcontract.
- (viii) Subcontract number (the contract number assigned by the prime contractor).
- (ix) Subcontractor physical address including street address, city, state and nine-digit zip code and congressional district if in the United States.
- (x) Subcontract primary performance location including street address, city, state and nine-digit zip code and congressional district if in the United States.
- (xi) Names and total compensation of each of the five most highly compensated officers for the calendar year in which the subcontract is awarded if –
 - (i) in the subcontractor's preceding fiscal year, the subcontractor received –
 - (A) 80 percent or more of its annual gross revenues in Federal contracts (and subcontracts), loans, grants (and subgrants), and cooperative agreements; and
 - (B) \$25,000,000 or more in annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants), and cooperative agreements; and
 - (ii) the public does not have access to information about the compensation of the senior executives 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.

(Note: the information in paragraphs (i) through (x) are not required to be reported for any contractor or first-tier subcontractor whose gross income did not exceed \$300,000 in the previous tax year).

(6) For subcontracts under \$25,000 or any subcontracts awarded to an individual, the total number of subcontracts awarded in the quarter and their total dollar amount.

(End of clause)

PRESCRIPTION

Shall be used in all SIRs and contracts funded, in whole or in part, by the American Recovery and Reinvestment Act.

3.17-2 Authority of the Inspector General Relating to Contracts Using American Recovery and Reinvestment Act Funding (March 2009)

In addition to any other existing authority the Department of Transportation Inspector General has, the Inspector General is further authorized--

- (a) to examine any records of the contractor or any of its subcontractors that pertain to, and involve transactions relating to, the contract or subcontract; and
- (b) to interview any officer or employee of the contractor or subcontractor.

(End of clause)

PRESCRIPTION

Shall be used in all SIRs and contracts funded, in whole or in part, by the American Recovery and Reinvestment Act.

3.6.4-18 Certification Regarding Steel and Manufactured Products (March 2009)

In accordance with 49 USC Section 50101, the offeror/contractor certifies that:

[Check one]

The steel and manufactured goods, including components and subcomponents provided in accordance with this contract are entirely produced in United States (or deemed United States produced pursuant to International Agreement)

The cost of components and subcomponents produced in the United States is more than 60 percent of the cost of all components of the facility or equipment and final assembly of the facility or equipment has occurred in the United States

(End of provision)

PRESCRIPTION

Shall be used in all SIRs and contracts funded, in whole or in part, by the American Recovery and Reinvestment Act.

END OF CLAUSE CHANGE 52