

Additional Purchase Order Terms and Conditions American Recovery and Reinvestment Act of 2009 (May 2009)

This “Additional Purchase Order Terms and Conditions American Recovery and Reinvestment Act 2009” is made a part of the Purchase Order to which it is attached, and each of the terms and conditions set forth hereafter are incorporated in and made a part of the Purchase Order as if fully set forth therein.

1. American Recovery and Reinvestment Act of 2009.

This Purchase Order is funded pursuant to the American Recovery and Reinvestment Act (“ARRA”). As a condition of the funding, the federal government requires certain reports regarding the use of the funds. The responsibility for providing such reports may be delegated by the recipients to the sub-recipients of the awards. As such, UNM hereby delegates reporting responsibility to Contractor, and this Purchase Order is made on the condition that Contractor agrees to abide by all requirements of ARRA, including the reporting requirements for sub-recipients. Receipt of funds by Contractor under this Purchase Order is contingent upon Contractor’s compliance with those reporting requirements. The reporting requirements include, but are not necessarily limited to, the following, as applicable:

- a) Contractor shall acquire or update their DUNS number and register with the Central Contractor Registration, if applicable;
- b) Contractor shall report the total amount of ARRA funds received pursuant to this Purchase Order;
- c) Contractor shall report the amount of funds received that were expended or obligated to projects or activities, including unobligated balances to facilitate reconciliations.

2. The American Recovery and Reinvestment Act of 2009 (ARRA) (Public Law 111-5) Award Term

Unless otherwise specified, ARRA funding is one-time funding.

3. Reporting and Registration Requirements under Section 1512 of the American Recovery and Reinvestment Act of 2009, (Public Law 111-5)

- (a) This award requires the Contractor to complete projects or activities which are funded under the American Recovery and Reinvestment Act of 2009 ("Recovery Act") and to report on use of Recovery Act funds provided through this award. Information from these reports will be made available to the public.
- (b) The reports are due on the 10th day of April, July, October, and January for each preceding quarter in which the Contractor receives the assistance award funded in whole or in part by the Recovery Act.
- (c) Contractor must maintain current registrations in the Central Contractor Registration (www.ccr.gov) at all times during which they have active federal awards funded with Recovery Act funds. A Dun and Bradstreet Data Universal Numbering System (DUNS) Number (www.dnb.com) is one of the requirements for registration in the Central Contractor Registration.
- (d) The Contractor shall report the information described in this section using the reporting instructions and data elements that will be provided online at www.FederalReporting.gov and ensure that any information that is pre-filled is corrected or updated as needed.

4. Protecting State and Local Government and Contractor Whistleblowers under Section 1553 of the American Recovery and Reinvestment Act of 2009, (Public Law 111-5)

A. UNM and Contractor agree and acknowledge that an employee of any non-Federal employer receiving fund pursuant to ARRA may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing, including a disclosure made in the ordinary course of an employee’s duties, to the Recovery Accountability and Transparency Board, an inspector general, the Comptroller General, a member of Congress,

a State or Federal regulatory or law enforcement agency (such as the New Mexico Attorney General's Office), a person with supervisory authority over the employee (or such other person working for the employer who has the authority to investigate, discover, or terminate misconduct), a court or grand jury, the head of a Federal agency or their representatives, information that the employee reasonably believes is evidence of:

- 1) Gross mismanagement of an agency contract or grant relating to ARRA funds;
- 2) A gross waste of ARRA funds;
- 3) A substantial and specific danger to public health or safety related to the implementation or use of ARRA funds;
- 4) An abuse of authority related to the implementation or use of ARRA funds; or
- 5) A violation of law, rule, or regulation related to an agency contract (including the competition or negotiation of a contract) or grant, awarded or issued relating to ARRA funds.

B. Contractor shall post notice of the rights and remedies provided under this section. The notice of rights shall be the same as or equivalent to the example poster at <https://www.ed.gov/open/plan/recovery-gov>

C. Contractor will ensure that any subcontractor that provides any products or services in connection with this Agreement is informed of this requirement and Contractor shall require all subcontractors to comply with the requirement as a condition of its subcontracting agreement.

5. Civil Rights Obligations

While ARRA has not modified awardees' civil rights obligations, which are referenced in the NIH Grants Policy Statement, these obligations remain a requirement of Federal law. Contractors and subcontractors receiving ARRA funds or other Federal financial assistance must comply with Title VI of the Civil Rights Act of 1964 (prohibiting race, color, and national origin discrimination), Section 504 of the Rehabilitation Act of 1973 (prohibiting disability discrimination), Title IX of the Education Amendments of 1972 (prohibiting sex discrimination in education and training programs), and the Age Discrimination Act of 1975 (prohibiting age discrimination in the provision of services). For further information and technical assistance, please contact the HHS Office for Civil Rights at (202) 619-0403, OCRmail@hhs.gov, or <http://www.hhs.gov/ocr/civilrights/>.

6. Disclosure of Fraud or Misconduct

Each contractor or subcontractor awarded funds made available under the ARRA shall promptly refer to the HHS Office of Inspector General any credible evidence, known by the contractor or subcontractor that a principal, employee, agent, contractor, subcontractor, or other person has submitted a false claim as defined by 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 those funds. The HHS Office of Inspector General can be reached at <http://www.oig.hhs.gov/fraud/hotline/>

CONSTRUCTION SERVICES

7. Buy American Provisions

A. If applicable, Contractor will comply with Division A, Section 1605 of ARRA regarding Buy American Provisions, regarding use of American iron, steel, and manufactured goods.

(a) None of the funds appropriated or otherwise made available by this Act may be used for a project for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States.

(b) Subsection (a) shall not apply in any case or category of cases in which the head of the Federal department or agency involved finds that—

(1) applying subsection (a) would be inconsistent with the public interest;

(2) iron, steel, and the relevant manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or

(3) inclusion of iron, steel, and manufactured goods produced in the United States will increase the cost of the overall project by more than 25 percent.

(c) If the head of a Federal department or agency determines that it is necessary to waive the application of subsection (a) based on a finding under subsection (b), the head of the department or agency shall publish in the Federal Register a detailed written justification as to why the provision is being waived.

(d) This section shall be applied in a manner consistent with United States obligations under international agreements.

B. If applicable, Contractor shall require all subcontractors to comply with the requirement as a condition of its subcontracting agreement.

8. Wage Rate Requirements

A. If applicable, Contractor will comply with Division A, Section 1606 of ARRA regarding wage rate requirements.

Notwithstanding any other provision of law and in a manner consistent with other provisions in this Act, all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to this Act 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. With respect to the labor standards specified in this section, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (64 Stat. 1267; 5 U.S.C. App.) and section 3145 of title 40, United States Code.

B. If applicable, Contractor will comply with Division B, Section 1601 of ARRA regarding application of certain labor standards to projects financed with certain tax-favored bonds.

Subchapter IV of chapter 31 of the title 40, United States Code, shall apply to projects financed with the proceeds of—

(1) any new clean renewable energy bond (as defined in section 54C of the Internal Revenue Code of 1986) issued after the date of the enactment of this Act,

(2) any qualified energy conservation bond (as defined in section 54D of the Internal Revenue Code of 1986) issued after the date of the enactment of this Act,

(3) any qualified zone academy bond (as defined in section 54E of the Internal Revenue Code of 1986) issued after the date of the enactment of this Act,

(4) any qualified school construction bond (as defined in section 54F of the Internal Revenue Code of 1986), and

(5) any recovery zone economic development bond (as defined in section 1400U–2 of the Internal Revenue Code of 1986).

C. If applicable, Contractor shall require all subcontractors to comply with the requirement as a condition of its subcontracting agreement.

9. Non-compliance with ARRA Reporting Requirements

A. If any part of this Agreement is funded pursuant to the American Recovery and Reinvestment Act (“ARRA”), Contractor agrees to abide by sections 1 through 8 above.

B. Failure of Contractor or any subcontractor to Contractor to comply with the reporting requirements, through material omission, knowingly reporting false data, or failure to comply with reporting deadlines, may result in withholding of payment.