

AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA) SPECIAL PROVISIONS

As a requirement of Section 1201 and 1512 of the ARRA, all prime contractors and subcontractors are required to report monthly employment information, including total employees, total hours worked, and total payroll amount. All prime contractors SHALL complete the attached MONTHLY EMPLOYMENT REPORT (Form FHWA-1589). The prime contractor shall collect data for its own employees and data for all subcontractors and SHALL submit this report in one complete submittal.

Form FHWA-1589 shall be submitted no later than 10 calendar days after the end of each month in Adobe Acrobat electronic format from the Contractor to the State to the following email address (or to other addresses as designated by the Engineer):

ARRA.reporting@hawaii.gov

The electronic file naming convention shall be: [Federal Aid Project Number]+[(reporting month and year)].pdf

Example: Filename would be ARR-019-1(1)(06-2009).pdf for Project number: ARR-019-1(1) for the month of June 2009

If requested by the Contractor, the Engineer will furnish an electronic copy of FHWA-1589 in Microsoft Excel format.

Failure to submit this data by the above monthly deadline will result in the withholding of the progress pay estimate until the completed FHWA-1589 is submitted AND an assessment of Liquidated Damages in the amount shown below:

Calendar Days Late after the 10 th of the Month	Liquidated Damage Amount per Day
1 – 7	\$1,000
8 – 14	\$2,000
15 – 21	\$3,000

Example: The Subcontractor A submits data to the Prime Contractor on the 17th day of the month. On the 18th day, the Prime Contractor Completes FHWA-1589 form and submits it to the State. The Prime Contractor is assess a liquidated damage of 7 days x \$1,000 + 1 day x \$2,000 = **\$9,000** that will be deducted from the pay estimate.

The Contractor is advised that the above liquidated damage amount represents the risk of the Federal Government not participating in the project cost or the potential of jeopardizing the receipt of Federal Recovery Funds to the State of Hawaii due to non compliance of reporting requirements by the Contractor or its subcontractors. It is imperative that the submittals of FHWA-1589s be completed by the deadline. By submitting a bid for this project, the Contractor accepts the above stated liquidated damage amounts and acknowledges that the establishment of the above liquidated damage amounts is based on what the State has determined as a fair amount, and that all parties have been provided advance notification of this intent.

Payment for all related data collection and preparation of FHWA-1589 will be considered as incidental to the various contract items.

Required Contract Provision to Implement ARRA Section 902:

The Contractor is advised that: Section 902 of the American Recovery and Reinvestment Act (ARRA) 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.

Section 1515(a) Notification - Authority of the Inspector General:

The Contractor is advised that: Section 1515(a) of the ARRA provides authority for any representatives of the Inspector General to examine any records or interview any employee or officers working on this contract. The Contractor is advised that representatives of the inspector general have the authority to examine any record and interview any employee or officer of the Contractor, its subcontractors or other firms working on this contract. Section 1515(b) further provides that nothing in this section shall be interpreted to limit or restrict in any way any existing authority of an inspector general.

Monthly Employment Report (Form: FHWA-1589)

This form is a guide for the States in providing employment information on each ARRA project. Monthly employment information on each ARRA project is used by States for meeting the reporting requirements of Sections 1201 and 1512. In order for States to fulfill their reporting obligations, the States must collect and analyze certain employment data for each ARRA funded contract. The data requirement in ARRA extends beyond the number of workers at the work site and, therefore, FHWA has produced a form for guidance to the States. This data to be reported is identified below and will be used by the States in developing Form 1587, which is to be submitted to FHWA. Since States may not currently collect this data, the States should develop a new specification for each ARRA-funded contract in order to obtain this information from contractors and consultants. In doing so, the States should use the provided model form and require the reporting of this data from the prime contractor or consultant. The prime contractor or consultant shall complete a report for each month from the date of the Notice to Proceed until completion of the contract or September, 2012 whichever occurs sooner. This report is only required for contracts that use ARRA funds. States should require contractors and consultants to provide the required information for their own workforce as well as the workforce of all subcontractors that were active on their ARRA funded project(s) for the reporting month. It will be up to each State to determine when they obtain the necessary data from their contractors or consultants, keeping in mind that the summary form is due from the State to the FHWA Division no later than the 20th day of each month for the preceding month's data.

It is the State DOT's responsibility to report the number of jobs on projects managed by funding recipients, such as other state agencies or local governments. The State DOT must make arrangements with each ARRA funding recipient to assure each recipient reports the required data in a timely manner.

The States shall require the following data be provided by each contractor, consultant and funding recipient working on an ARRA project. The primary contractor or consultant for each project shall be responsible for reporting their firm as well as all subcontractors data.

Format: The State, contractors, or consultant may use the FHWA provided model form, but the use of the model form is optional and at the discretion of the State.

Due date: As determined by the State, until September 2012.

Due to: To be sent by each ARRA funded project prime contractor or consultant to the designated office in each State DOT or Federal Lands Division Office.

Coding Instructions

BOX 1. Report Month: The month and year covered by the report, as *mm/yyyy* (e.g. "May 2009" would be coded as "05/2009").

BOX 2. Contracting agency: The name of the contracting agency. Enter "State" for State DOT projects. For non-State projects, enter the name of the contracting

agency (other State agency, Federal agency, tribe, MPO, city, county, or other funding recipient).

BOX 3. **Federal-aid project number:** The State assigned federal-aid project number, consistent with the format reported in FMIS.

BOX 4. **State project number or identification number:** The project number or ID, as assigned by the State of its funding recipient, consistent with the format reported in FMIS.

BOX 5. **Project location:** State where project occurs. If the project performed for Federal Lands, provide the FLH Division or Federal Land Managing Agency (FLMA) region.

BOX 6. **Contractor name and address:** The name and address of the contracting or consulting firm shall include the name, street address, city, state, and zip code.

BOX 7. **Contractor DUNS number:** The unique nine-digit number issued by Dun & Bradstreet. Followed by the optional 4 digit DUNS Plus number. Reported as "999999999.9999"

BOX 8. **Employment data:** The prime contractor or consultant will report the direct, on-the-project jobs for their workforce and the workforce of their sub-contractors active during the reporting month. These jobs data include employees actively engaged in projects who work on the jobsite, in the project office, in the home office or telework from a home or other alternative office location. This also includes any engineering personnel, inspectors, sampling and testing technicians, and lab technicians performing work directly in support of the ARRA funded project. This does not include material suppliers such as steel, culverts, guardrail, and tool suppliers. States should include in their reports all direct labor associated with the ARRA project such as design, construction, and inspection. The States reports should include their own project labor, including permanent, temporary, and contract project staff. States are asked not to include estimated indirect labor, such as material testing, material production or estimated macro-economic impacts. FHWA will be estimating all indirect labor based on the information provided in this form along with other FHWA data. The form requests specifically:

- a. **Subcontractor name:** The name of each subcontractor or sub-consultant that was active on the project for the reporting month.
- b. **Employees:** The number of project employees on the contractor's or consultant's workforce that month, and the number of project employees for each of the active subcontractors for the reporting month. Do not include material suppliers. Total field at bottom will be automatically calculated and reported as a whole number.
- c. **Hours:** The total hours on the specified project for all employees reported on the contractor's or consultant's project workforce that month, and the total hours for all project employees reported for each of the active subcontractors that month. Total field at bottom will be automatically calculated and reported as a whole number.

- d. **Payroll:** The total dollar amount of wages paid by the contractor or consultant that month for employees on the specified project, and the total dollar amount of wages paid by each of the active subcontractors that month. Payroll only includes wages and does not include overhead or indirect costs. Total field at bottom will be automatically calculated and will be rounded to the nearest whole dollar and reported as a whole number.

BOX 9. Prepared by:

- a. **Name:** Indicate the person responsible for preparation of the form. By completing the form the person certifies that they are knowledgeable of the hours worked and employment status for all the employees. Contractors, consultants, and their subs are responsible to maintain data to support the employment form and make it available to the State should they request supporting materials.
- b. **Date:** The date that the contractor completed the employment form. Reported as "*mm/dd/yyyy*." (e.g. "May 1, 2009" would be coded as "05/01/2009").