
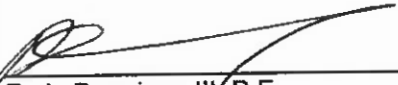
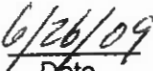


To: <b>SUPERSEDED BY EB 21-057</b> <b>EFFECTIVE 11/24/21</b>		New York State Department of Transportation <b>ENGINEERING          INSTRUCTION</b>	<b>EI</b> <b>09-019</b>
<b>Title: NEW YORK STATE RIDER FOR RECOVERY ACT FUNDED CONTRACTS</b>			
Distribution: <input type="checkbox"/> Manufacturers (18) <input type="checkbox"/> Surveyors (33) <input checked="" type="checkbox"/> Local Govt. (31) <input checked="" type="checkbox"/> Consultants (34) <input checked="" type="checkbox"/> Agencies (32) <input checked="" type="checkbox"/> Contractors (39)	Approved:  R. A. Dennison III, P.E. Chief Engineer <div style="text-align: right;">           Date       </div>		

**ADMINISTRATIVE INFORMATION:**

- Effective Date: This Engineering Instruction (EI) is effective upon signature.
- Expiration Date: All actions resulting from this EI shall stop when the American Recovery and Reinvestment Act (ARRA or "Recovery Act") fund sources expire.
- Superseded Issuances: None.

**PURPOSE:** To transmit required New York State contract provisions covering inclusion of Recovery Act job posting requirements in a broad range of Recovery Act funded contracts and agreements.

**TECHNICAL INFORMATION:**

- The New York State Department of Transportation's list of certified Recovery Act funded projects is available at [www.nysdot.gov](http://www.nysdot.gov) by selecting the "Economic Recovery" link and then the "Certified Highway Projects" option.
- Entities under contract or agreement should contact their normal project contract contact for contract-specific questions. For questions on the job posting requirements transmitted with this EI, see the "CONTACT" section of this EI. For questions on posting jobs through the Department of Labor, go to <http://www.labor.state.ny.us>.
- Wherever this EI refers to ARRA or Recovery Act funded projects, it is referring to projects or phases of projects funded in full or in part with ARRA funds.
- Vendor Placed Paving Projects (VPP): For all ARRA projects let by the Office of General Services (OGS), OGS will insert RIDER A language in the contract documents.

**IMPLEMENTATION:**

**NYSDOT Let Construction Contracts:**

- Actions by Regional Construction Groups: For all contracts already awarded that are certified to include ARRA funds, Regional Construction staff will add RIDER A (filling in the funding amounts listed in Item 4, Agreement Funding) to the contract by Order-on-Contract.
- Actions by Contract Management Bureau: (1) For all contracts scheduled to be awarded that are certified to include ARRA funds, Contract Management Bureau staff will add RIDER A (filling in the funding amounts listed in Item 4, Agreement Funding) to the award package. (2) For all subsequent federally-funded contracts that include RIDER A as transmitted by this EI, Contract Management Bureau staff will verify whether or not the contracts are on the list of certified projects, and if so fill in the funding amounts listed in Item 4, Agreement Funding.
- Actions by Design Quality Assurance Bureau (DQAB): Both the BACKGROUND AND GUIDANCE FOR USE OF RIDER A and RIDER A as transmitted by this EI shall be included in all contracts to be let that have any amount of federal funds. DQAB shall insert the provisions in contract proposals or add by amendment to printed proposals that do not already include the provisions.

**Local Let Construction Contracts:**

- Actions by NYSDOT Regional Planning Groups: Regional Planning Groups will provide RIDER A to Local Project Sponsors with instructions to include it in all ongoing and subsequent contracts certified to be funded with ARRA funds. The Region will also check that this provision is included during PS&E review of subsequent projects.
- Actions by Local Project Sponsors: Project Sponsors will incorporate RIDER A into all contracts certified to be funded with ARRA funds. For ARRA-funded contracts underway, the Project Sponsor will have the contract provision amended to the contract by Supplemental Agreement or Side Letter of Acknowledgment. The Project Sponsor is also responsible to provide the funding amounts listed in Item 4, Agreement Funding of RIDER A to the contractor.

**NYSDOT Consultant Construction Inspection Contracts:**

- Actions by Office of Construction: For all ongoing consultant construction inspection contracts certified to be funded with ARRA funds, Office of Construction staff will add RIDER A (filling in the funding amounts listed in Item 4, Agreement Funding) to the contract by Supplemental Agreement.
- Actions by Contract Management Bureau: For all subsequent consultant construction inspection contracts certified to be funded with ARRA funds, Contract Management Bureau staff will add RIDER A (filling in the funding amounts listed in Item 4, Agreement Funding) to the agreements before sending to the consultant for signature.

**NYSDOT Consultant Design Contracts:**

- Actions by Consultant Management Bureau: For all ongoing consultant design contracts funded with ARRA funds, Consultant Management Bureau staff will add RIDER A (filling in the funding amounts listed in Item 4, Agreement Funding) to the contract by Supplemental Agreement or Side Letter of Acknowledgment.
- Actions by Contract Management Bureau: For all subsequent consultant design contracts funded with ARRA funds, Contract Management Bureau staff will add RIDER A (filling in the funding amounts listed in Item 4, Agreement Funding) to the agreements before sending to the consultant for signature.

**Local Consultant Design and/or Construction Inspection Contracts:**

- Actions by NYSDOT Regional Planning Groups: Regional Planning Groups will provide RIDER A to Local Project Sponsors with instructions to include it in all ongoing and subsequent consultant contracts funded with ARRA funds.
- Actions by Local Project Sponsors: Project Sponsors will incorporate RIDER A into all consultant contracts funded with ARRA funds. For ARRA-funded contracts underway, the Project Sponsor will have RIDER A amended to the contract by Supplemental Agreement or Side Letter of Acknowledgment. The Project Sponsor is also responsible to provide the funding amounts listed in Item 4, Agreement Funding of RIDER A to the consultant.

**State/Local Agreements:**

- Actions by NYSDOT Regional Planning Groups: Regional Planning Offices will insert RIDER A (filling in the funding amounts listed in Item 4, Agreement Funding) into all State Local Agreements (SLAs) funded with ARRA funds. For ongoing SLAs with ARRA funding, the Regional Planning Office will have RIDER A amended to the SLA by Supplemental Agreement or Side Letter of Acknowledgment. All SLA's (including Supplemental Agreements) shall contain the following language: *"If funds for this Agreement are being supplied under the American*

## EI 09-019 Page 3 of 3

*Reinvestment and Recovery Act of 2009 (ARRA), then the attached RIDER A applies. No additional compensation will be paid for this Contract requirement."*

### **Other NYSDOT Agreements:**

- Actions by Contract Management Bureau: The Contract Management Bureau will insert RIDER A (filling in the funding amounts listed in Item 4, Agreement Funding) into all Other NYSDOT Agreements (e.g. utility, rail, aviation, transit, etc.) that are funded with ARRA funds. All such Agreements (including Supplemental Agreements) shall contain the following language: *"If funds for this Agreement are being supplied under the American Reinvestment and Recovery Act of 2009 (ARRA), then the attached RIDER A will apply. No additional compensation will be paid for this Contract requirement."*

### **TRANSMITTED MATERIALS:**

- BACKGROUND AND GUIDANCE FOR USE OF RIDER A – State- and Locally-Administered Transportation Projects
- RIDER A – American Recovery and Reinvestment Act of 2009, Vendor Obligations

**BACKGROUND:** The Recovery Act, signed into law on February 17, 2009, contains various reporting requirements, including employment and jobs data, related directly and indirectly to projects receiving funds from the legislation. EI 09-013 represented the Department's interpretation of the federal reporting and record keeping requirements associated with Recovery Act funded projects. Subsequent to the issuance of EI 09-013, the Executive Branch mandated that every firm the State hires with any portion of ARRA funds is responsible for posting all related jobs through the Department of Labor. The RIDER transmitted with this EI conveys this mandate.

### **CONTACTS:**

- General questions regarding this issuance should be addressed to Matt Bromirski of the Design Quality Assurance Bureau via e-mail at [mbromirski@dot.state.ny.us](mailto:mbromirski@dot.state.ny.us) or phone at (518) 457-6467.
- Questions regarding DOT let contracts should be addressed to Brian DeWald of the Office of Construction via e-mail at [bdewald@dot.state.ny.us](mailto:bdewald@dot.state.ny.us) or phone at (518) 457-9688.
- Questions regarding Local let contracts should be addressed to Ken Rupert of the Local Program Bureau via e-mail at [krupert@dot.state.ny.us](mailto:krupert@dot.state.ny.us) or phone at (518) 485-9959.
- Questions regarding consultant contracts and agreements should be addressed to Bill Howe of the Contract Management Bureau via e-mail at [whowe@dot.state.ny.us](mailto:whowe@dot.state.ny.us) or phone at (518) 457-1563.

## **BACKGROUND AND GUIDANCE FOR USE OF RIDER A**

### **State- and Locally-Administered Transportation Projects**

RIDER A on the following page is applicable to any entity (referred to as “vendor” on the following page) contractually associated with State-administered or Locally-administered transportation projects funded in total, or in part, by the American Recovery and Reinvestment Act (ARRA).

*The presence of RIDER A in this contract does not necessarily mean that the project is funded by ARRA funds or that the RIDER applies.* The prospective bidder may determine if RIDER A is applicable by accessing the list of certified projects at <https://www.nysdot.gov>, selecting the “Economic Recovery” link, and then selecting the “Certified Highway Projects” option. If the project appears on this list then the job posting requirements in RIDER A are expected to apply to the project. The final agreement funding breakdown (Item 4 of RIDER A) provided in the award package will serve as notice by the contracting agency that ARRA funds are associated with the project and the RIDER applies.

State agencies have been directed by the Executive Branch to require that every firm hired with any portion of American Recovery and Reinvestment Act (ARRA) funds post any jobs created by these funds to the New York State Job Bank. To that end, RIDER A on the following page must be complied with if ARRA funds are associated with the project.

Item 1 of RIDER A covers the job posting requirements referred to in the above paragraph.

Items 2 and 3 of RIDER A cover Reporting and Recordkeeping Requirements, and are described in full detail in the separate required contract provision titled “ARRA REPORTING AND RECORD KEEPING REQUIREMENTS Applicable To Transportation Projects Funded by the American Recovery & Reinvestment Act (ARRA)”. Items 2 and 3 of RIDER A are satisfied through compliance with this separate required contract provision.

Item 4 of RIDER A includes a breakdown of final agreement funding, including ARRA stimulus dollars. The Agreement Funding will be provided to you by the contracting agency as part of the award package.

**RIDER A**

American Recovery & Reinvestment Act of 2009, Vendor Obligations

1. Since this agreement contains ARRA stimulus funds, the vendor will post any jobs that it creates or seeks to fill as a result of the stimulus funding. Vendors will post through the New York State Department of Labor (<http://labor.state.ny.us>), notwithstanding any other posting they might make. Any advertisements posted by the vendor for positions pursuant to this contract must indicate that the position is funded with stimulus funds. The Department may waive the requirements of this section at its discretion.
  
2. The vendor will maintain detailed records of its expenditure of ARRA Stimulus Funds in connection with this agreement and submit reports as requested by the State of New York. The State of New York as the recipient of funds under the ARRA is subject to (various monthly and) quarterly reporting requirements and oversight by federal agency inspectors. Additional reports are required under this agreement (See Required Contract Provision - "ARRA Reporting & Recordkeeping Requirements" and attachments).
  
3. The vendor is also responsible for holding all sub grantees to the above reporting requirements.
  
4. Agreement Funding
  - a. State General Fund Dollars \_\_\_\_\_
  - b. Federal Fund Dollars \_\_\_\_\_
  - c. ARRA Stimulus Dollars \_\_\_\_\_
  - d. Other Fund Dollars \_\_\_\_\_

Agreement Total \_\_\_\_\_