

## ARPA Plans & Specifications Review Checklist

NOTE: This checklist is for the ARPA project manager and applicant to ensure that all state and federal requirements are included in the applicant's specifications prior to bidding the project.

A separate document, The ARPA Plans and Specifications Drop-in Requirements, includes all pertinent contract language and forms that the grant recipient must include in the specifications.

Project Name \_\_\_\_\_

ARPA Project No. \_\_\_\_\_

Reviewer \_\_\_\_\_

Date \_\_\_\_\_

### BID SOLICITATION

\_\_\_\_\_ (A) **Bid Solicitation Timeframe – 2 CFR 200.318**

A minimum of thirty (30) days should be allowed between the date when public notice, publication, insertion, or document available in a plan room is first published or provided and the date by which bids must be submitted.

\_\_\_\_\_ (B) **Nondiscrimination in Advertisement (E.O. 11246)**

ARPA recipients must include the following paragraph **in the bid solicitation**

*Nondiscrimination in Employment*

*"Bidders on this work will be required to comply with the President's Executive Order Number 11246. Requirements for bidders and contractors under this order are explained in the specifications."*

**Note: This language must be included in the Bid solicitation. For that reason it is not included in the Drop-in document. Please include this language separately in the bid solicitation.**

### ARPA REQUIREMENTS TO BE INCLUDED IN SPECIFICATIONS

\_\_\_\_\_ (C) **Missouri Wage Determinations – Chap. 290 RSMo**

Missouri Law requires the inclusion of state wage determinations in the ARPA funding applicant's specifications. Applicants may obtain state wage determinations by contacting the Missouri Department of Labor and Industrial Relations, Division of Labor Standards, P.O. Box 449, 3315 West Truman Blvd., Jefferson City, Missouri 65102. Telephone (573) 751-3403.

The ARPA funding applicant must include a copy of the most recent state wage determination in the specifications at the time of bid solicitation.

\_\_\_\_\_ (D) **Equal Employment Opportunity – 41 CFR 60-4; E.O. 11246**

The "The ARPA Plans and Specifications Drop-in Requirements includes the "Standard Federal Equal Employment Opportunity Construction Contract Specifications". Page 4 of this form has a table with an empty box under "Goals for minority participation for each trade".

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The ARPA funding applicant must insert the percentage for this goal in the table. The percentage goals are specific to the county where the project is located and can be found on page 5 of the form.

\_\_\_\_\_ (E) **Award of Contract – 2 CFR 200.319(d)(2)**

In accordance with 2 CFR 200.319(d)(2), the applicant's proposal must fully explain the basis for determining the low bidder and the specifications will advise bidders how the contract(s) will be awarded.

\_\_\_\_\_ (F) **Protest Provisions – 2 CFR 200.318(k)**

The ARPA funding applicant's specifications shall include the applicant's established protest provisions adopted prior to bid solicitation. The provisions will contain the filing of and resolution procedures for protests. The applicant shall, in all instances, disclose information regarding the protest to the Missouri Department of Natural Resources.

\_\_\_\_\_ (H) **Rejection of Bids – 2 CFR 200.320(b)(1)(ii)(E)**

The specifications will advise bidders that any or all bids may be rejected for a sound, documented reason.

\_\_\_\_\_ (I) **Provisions to Terminate - 2 CFR 200 Appendix II(B)**

For contracts exceeding \$10,000, the specifications must include provisions for the ARPA funding applicant to terminate the contract for cause and for convenience, including the manner by which the termination will be effected and the basis for settlement.

\_\_\_\_\_ (J) **Definite Completion Time**

The bidding documents shall include a provision for the maximum calendar or workdays allowed for completion of the project.

The ARPA funding applicant shall expend all ARPA funds awarded to the funding applicant prior to December 31, 2026.

\_\_\_\_\_ (K) **100% Performance Bond and 100% Payment Bond – 2 CFR 200.326(b); 2 CFR 200.326(c)**

The specifications must include separate performance and payment bonds, each in the amount of 100 percent of the contract price, which are required by 2 CFR 200.326 on construction contracts or subcontracts exceeding the Simplified Acquisition Threshold. Where bonds are required, the contractor(s) must obtain them from companies holding certificates of authority as acceptable sureties (31 CFR Part 223). Use of the ARPA funding applicant's own bonding policies and requirements may be authorized, if they can be determined to be adequate to protect the Government's interest.

\_\_\_\_\_ (L) **Bid Guarantee (5% Bid Bond) – 2 CFR 200.326(a)**

Regulation 2 CFR 200.326(a) requires each bidder to furnish a bid guarantee equivalent to 5% of the bid.

\_\_\_\_\_ (M) **Surety Statement – 31 U.S.C. §§ 9304-9308 and 375.141 RSMo**

In accordance with 31 U.S.C. §§ 9304-9308, the following statement must be included on all bond forms.

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*“IMPORTANT - Surety companies executing BONDS must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in Missouri.”*

### (N) Stormwater Permit – 10 CSR 20-6.200

The Department requires the ARPA funding applicant to verify their existing National Pollutant Discharge Elimination System (NPDES) permit(s) cover stormwater discharges or obtain the necessary permit(s). The following scenarios may be applicable:

1. The SRF funding applicant is a regulated Municipal Separate Storm Sewer System (MS4) per 10 CSR 20-6.200(1)(D)24 and their NPDES MS4 permit outlines compliance with construction stormwater requirements,
2. The design flow of the wastewater treatment plant is greater than or equal to 1 million gallon per day and the NPDES wastewater permit also regulates construction stormwater, or
3. Neither 1 or 2 above applies and the proposed project disturbs one (1) or more acres of total land area or less than one (1) acre as part of a common plan or sale resulting in the need for a land disturbance permit to discharge construction stormwater.

For further information, contact the Missouri Department of Natural Resources, Water Protection Program, Operating Permits Section, P.O. Box 176, Jefferson City, Missouri 65102. Telephone: (573) 522-4502.

### (O) Methods of Procurement – 2 CFR 200.320

When the value of the procurement for property or services under a Federal award does not exceed the *simplified acquisition threshold (SAT)*, as defined in [§ 200.1](#), or a lower threshold established by the Department of Natural Resources, the ARPA funding recipient may use informal procurement methods to expedite the completion of its transactions and minimize the associated administrative burden and cost. Informal methods of procurement are outlined in 2 CFR 200.320(a)

Otherwise, formal procurement methods are required. Formal procurement methods are outlined in 2 CFR 200.320(b).

### (P) Clean Water Act (CWA) § 404 Permitting & § 401 Water Quality Certification (WQC)

Prior to performing any work in a waterway or wetland, contact the appropriate U.S. Army Corps of Engineers (USACE) district to determine if a CWA Section 404 federal permit is required. USACE permits require a CWA Section 401 WQC from the Missouri Department of Natural Resources (the Department) to ensure that the federally authorized projects will comply with the Missouri Clean Water Law. Some permits receive a programmatic WQC that is provided by the USACE upon issuance of their permit, but some permits require an individual WQC and coordination with the Department. The USACE will direct applicants to the Department if an individual WQC is required.

There may be special conditions, including sediment sampling requirements for projects on certain impaired waters that require early coordination with the Department. Applicants should contact the Department for projects on a waterway designated as impaired for a sediment-related impairment, aquatic habitat alteration, channelization, or an unknown impairment by the Department in the most current 305(b) Integrated Water Quality Report.

More information can be found at <https://dnr.mo.gov/water/business-industry-other-entities/permits-certification-engineering-fees/section-401-water-quality>.

Questions regarding the state's role in 404 permitting, the state's 401 WQC process, or early coordination on impaired waters can be sent by email to [wpsc401cert@dnr.mo.gov](mailto:wpsc401cert@dnr.mo.gov) or you may contact Billy Hackett by phone at 573-522-1131.

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\_\_\_\_\_ (Q)

### **ARPA Required Documents PDF**

The ARPA funding applicant must include in the specifications “The ARPA Plans and Specifications Drop-in Requirements” PDF as provided. NO changes to this document are allowed except for entering the federal minority participation goal percentage on page 8.

### **RECOMMENDED FOR INCLUDING IN SPECIFICATIONS**

\_\_\_\_\_ (R)

### **Bid Alternates – 2 CFR 200.318(d)**

The Department has noted bids being returned at amounts much higher than estimates over the past several years. The Department therefore advises that bid solicitations include bid alternates. In the event the total bid exceeds the ARPA funding applicant's total funding capability, it has the option to deduct certain less critical portions of the project. If the final engineer's estimate made prior to bidding is more than the ARPA funding request made by the applicant, the ARPA funding request may not be increased.

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### ITEMS THAT MUST BE EXCLUDED FROM SPECIFICATIONS

\_\_\_\_\_ (S)      **Experience Clause Restriction – 2 CFR 200.319(b)(2)**

The specifications shall not include a restrictive experience clause for equipment or material suppliers except as noted in 2 CFR 200.319(b) where the use of experience clauses is restricted to cases where adequate justification can be made. When experience clauses are used, they will be limited to reasonable periods of time. It is also recommended that submission of a bond or cash deposit be permitted instead of a specified experience period, which will guarantee replacement in the event of failure. The period of time for which a guarantee bond or cash deposit is required should not exceed the experience period specified.

\_\_\_\_\_ (T)      **Restrictive Specifications – 2 CFR 200.319(b)(6)**

No proprietary, exclusionary or discriminatory requirements other than those based upon performance are allowable. ARPA funding applicants must state clearly in the specification the salient requirements of the named brand which must be met by offerers and that other brands may be accepted. Please ensure the specifications reflect that other brands may be accepted and the process for obtaining that acceptance.