

Call 12 Mill & Overlay approximately 3 miles of US 51 from Nail Road to the Tennessee State Line, known as Project No. STBG-9327-00(010) / 109437301 in Desoto County

Q1. What is ARPA/SLFRF as referenced in Contract 900, Section 902?

A1. On March 11, 2021, President Biden signed into law the American Rescue Plan Act (“ARPA”), setting aside a total of \$1.9 trillion in federal funding for COVID-19 related expenses and needs. ARPA provided numerous mechanisms for funding a variety of recipients. States and local governments received specific allocations under ARPA’s State and Local Fiscal Recovery Fund (“SLFRF”). Accordingly, the State of Mississippi received a direct allocation of ARPA/SLFRF funds from U.S. Treasury for use on eligible expenditures as defined by U.S. Treasury.

The Mississippi Legislature was tasked with appropriating the State’s ARPA/SLFRF allocation to State agencies and recipients eligible for funding as defined by U.S. Treasury guidelines and regulations. MDOT was appropriated a portion of the State’s ARPA/SLFRF funds in the Mississippi Legislature’s 2024 Session to support eligible surface transportation maintenance projects.

Q2. How was this program created in Mississippi and what is the purpose of the use of ARPA/SLFRF funds?

A2. The State of Mississippi was allocated ARPA/SLFRF funds directly from U.S. Treasury. The Mississippi Legislature examined the eligible uses for these funds and appropriated a portion of the State’s direct allocation under ARPA to support projects outlined in MDOT’s Three-Year Plan. MDOT was appropriated these funds under Senate Bills 2848 and 3165 of the Mississippi Legislatures 2024 Session to provide funding for eligible surface transportation maintenance included in the Maintenance Program of the Three-Year Plan adopted by, amended by, or reissued by the Mississippi Transportation Commission under the authority of MS Code Section 65-1-141. Upon being appropriated ARPA/SLFRF funds, MDOT identified eligible projects outlined in its Three-Year Plan, and the agency has now begun the process of soliciting bids for the construction and completion of these identified, approved projects in accordance with applicable State and federal regulations.

Q3. What are the differences between normal MDOT contracts and those related to ARPA/SLFRF contracts?

A3. Contract 900, specifically section 902, outlines in detail the standards that all contractors bidding on and these eligible projects must agree to comply with and strictly adhere to. ARPA/SLFRF contracts require certain additional contract provisions to be included in all contracts and subcontracts that will be funded, in whole or in part, with ARPA/SLFRF dollars. These provisions are specifically required by U.S. Treasury for ARPA/SLFRF funds to be expended for work performed on the projects being solicited for bid under Contract 900. Please note, provisions included in Contract 900, Section 902, are mandated by U.S. Treasury and may differ from provisions included in prior MDOT contracts that

were not funded with ARPA/SLFRF dollars. Accordingly, MDOT encourages all contractors bidding on any ARPA/SLFRF project to carefully review the specific requirements set forth in Contract 900, Section 902, before bidding on these projects.

- Q4. What regulations apply to contracts and subcontracts intended to be funded with ARPA/SLFRF funds?
- A4. Contractors and subcontractors awarded under Contract 900 must comply with all applicable requirements of Section 9901 of ARPA and governing regulations thereunder, found at 31 CFR Part 35 and 2 CFR Part 200, and any other applicable State or federal laws, regulations or executive orders as set forth in Contract 900, Section 902. All applicable ARPA/SLFRF contract requirements are set forth in Contract, 900, Section 902 in detail. Additionally, all contract provisions required to be included in any subcontracts executed by contractors may be found in MDOT's Appendix "A" to Contract 900, a link to which is located under the additional resources section of this document.
- Q5. What is required of contractors to ensure compliance with Section F, parts 1-2, of Contract 900, Section 902, regarding use of minority and/or women business enterprises?
- A5. U.S. Treasury guidance governing the use of ARPA/SLFRF funds requires that 2 C.F.R. § 200.321 be complied with when these funds are used to pay for expenditures incurred on eligible projects. 2 C.F.R. § 200.321 outlines the affirmative steps that must be taken to ensure that minority or women owned enterprises are affirmatively reached out to, when feasible, and afforded the opportunity to bid on work to be performed. Contractors bidding on projects governed by Contract 900 may demonstrate compliance with 2 C.F.R. § 200.321 by representing in their bid documentation that they agree to meet the DBE goals outlined by MDOT for the project being bid on.
- Q6. What documentation should be maintained by a contractor awarded work under Contract 902 demonstrate their compliance with Section F, parts 1-2, of Contract 900, Section 902, regarding use of minority and/or women business enterprises?
- A6. Contractors awarded work under Contract 900 must maintain adequate documentation demonstrating how they met MDOT's specific DBE goals for that project set forth in the solicitation for bid package. In the event it is not feasible to solicit and/or utilize a DBE on the awarded project, the contractor should draft a narrative outlining the steps it took to attempt to utilize minority or women owned businesses on the project, and an explanation of why such use was not feasible and submit that narrative to MDOT for review and approval.
- Q7. How can a contractor satisfy Section G of Contract 900, Section, 902, regarding debarment and suspension?
- A7. All contractors should register on SAM.gov and receive a Unique Entity Identification ("UEI") number. A search of the debarment and suspension list on SAM.gov will indicate whether or not the contractor has any issues with complying with Section G of Contract

900, Section 902. Additionally, all subcontractors retained by the selected contractor(s) must demonstrate to the contractor that they are not disqualified under this provision. In the event a subcontractor is not able to register on Sam.gov, it may complete the Small Business Certification Regarding Debarment and Suspension. A link to this certification may be found below under the [additional resources section](#) of this document. It is the responsibility of the contractor(s) selected to confirm the debarment/suspension status of any of its subcontractors and retain documentation of such confirmation in its project file to be submitted to MDOT. Such documentation may include either the search results of the contractor's and subcontractor's UEI numbers on Sam.gov for debarment and suspensions, or if the subcontractor is not registered on Sam.gov they will need to complete the small business certification and submit that to the contractor.

Q8. What is the Byrd Anti-Lobbying Amendment cited in Section H of Contract 900, Section 902, and how can a contractor demonstrate compliance with this section?

A8. The Byrd Anti-Lobbying Amendment applies to contracts and subcontracts awarded in excess of \$100,000.00. Contractors awarded work under Contract 900, Section 902, for projects over \$100,000.00, are required to execute a Byrd Anti-Lobbying Certification and submit this certification to MDOT. Additionally, Contractors are required to obtain this certification from any subcontractors who enter into subcontracts with the contractor in excess of \$100,000.00. A link to this certification may be found under the [additional resources section](#) of this document. It is the responsibility of the contractor(s) selected to require any subcontractors to complete this certification and the contractor must retain a copy of the certification in its project file to be submitted to MDOT.

Q9. What is required for subcontractors to ensure compliance with Section F, parts 1-2, of Contract 900, Section 902, regarding use of minority and/or women business enterprises?

A9. In the event a subcontractor elects to enter into a lower tiered subcontract, the subcontractor will need to demonstrate the affirmative steps it took to solicit minority and/or women owned businesses to bid on the work to be performed by the lower tier subcontractor in accordance with 2 C.F.R. § 200.321.

Q10. What documentation should be maintained by subcontractors to demonstrate compliance with Section F, parts 1-2, of Contract 900, Section 902, regarding use of minority and/or women business enterprises?

A10. A subcontractor who seeks to enter into a lower tier subcontract may demonstrate that it took affirmative steps to solicit minority and/or women owned businesses in a variety of ways. One simple way to satisfy this federal requirement is for the subcontractor to post the solicitation for bid to <https://mscpc.com/> utilizing the Mississippi Technical Assistance Program ("MPTAP") process to ensure affirmative reach out to available minority and/or women owned businesses to bid on the work outlined in the lower tiered subcontract. Another way a subcontractor may satisfy this federal requirement, should they choose to enter into a lower tiered subcontract, is to send targeted solicitations for bid to qualified minority and/or women owned businesses to ensure they are made aware of this

opportunity to bid. Should the subcontractor elect to enter into a lower tiered subcontract, documentation of such targeted reach out and/or posting to MPTAP must be retained and provided to the contractor who is then responsible for submitting such documentation to MDOT

Q11. Are subcontractors hired by the Contractor(s) awarded under Contract 900, Section 902, required to be registered on Sam.gov?

A11. MDOT strongly encourages all subcontractors to register on SAM.gov and receive a UEI, which will allow contractors to confirm the status of any debarments or suspension applicable to the subcontractor. In the event a subcontractor is not able to register on Sam.gov, the subcontractor may complete the Small Business Certification Regarding Debarment and Suspension. A link to this certification may be found below under the [additional resources section](#) of this document. The contractor(s) selected is responsible for confirming the debarment/suspension status of any of its subcontractors and retaining documentation of such confirmation in its project file to be submitted to MDOT.

Q12. What contract clauses must be included in all subcontracts executed with contractors awarded work under Contract 900, Section 902?

A12. To ensure all applicable contract provisions are included in any subcontracts executed by contractors awarded work under Contract 900, Section 902, MDOT has prepared an Appendix "A" that must be attached to all subcontracts and executed by the contractor and subcontractor agreeing to the contractual provisions applicable to all ARPA/SLFRF projects. A link to the template Appendix "A" may be found under the additional resources section of this document. Please note, there are three distinct versions of Appendix "A" based on the value of the contract at issue: (1) Subcontracts under \$100,000.00; (2) Subcontracts between \$100,00.00 and \$150,000.00; and (3) Subcontracts over \$150,000.00. A link to all three versions may be found below under the additional resources section of this document.

Q13. Can you provide Additional Resources for Contractors/Subcontractors?

A13. Yes. See the links below.

- [Byrd Anti-Lobbying Certification](#)
- [Small Business Certification Regarding Debarment and Suspension](#)
- [Appendix "A" for subcontracts under \\$100,000.00](#)
- [Appendix "A" for subcontracts between \\$100,000.00 and \\$150,000.00](#)
- [Appendix "A" for subcontracts over \\$150,000.00](#)