

COLORADO WASTE TIRE PROGRAM INFORMATION

Recycling Incentives for Purchasing and Using Recycled Waste Tire Products in Public Projects

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**STATE OF COLORADO
DEPARTMENT OF LOCAL AFFAIRS
DIVISION OF LOCAL GOVERNMENT**
1313 Sherman Street, Room 521 – Denver, Colorado 80203

**This document is also available
on the Department of Local Affairs' Home Page at
www.dola.colorado.gov/waste_tire**

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COLORADO WASTE TIRE RECYCLING GRANT PROGRAM GUIDELINES

Recycling Incentives for Purchasing and Using Recycled Waste Tire Products in Public Projects

The Colorado General Assembly passed legislation in 1998 (SB98-198), C.R.S. 24-32-114 (1) (b) (I) concerning tire recycling and re-use programs. Specifically, the legislation provides incentives for state agencies and local governments to purchase products made from recycled or reused waste tire material in their public projects.

The legislation authorizes funds be made available to counties, municipalities, special districts (including school districts), and state agencies, as a financial incentive to purchase products containing recycled or reused Colorado waste tires on a reimbursement basis.

Purpose

The purpose of this program is to encourage the beneficial reuse and recycling of Colorado waste tires by providing incentives to counties, municipalities, special districts, and state agencies to purchase products made from Colorado-generated recycled or reused waste tires in their public projects.

Definitions

“Product” is defined as a commodity that contains or makes use of Colorado-generated recycled waste tires.

A *“public project”* is defined as any publicly funded contract entered into by a county, municipality, special district (including municipal and school districts) or a publicly funded contract entered into by a state agency in accordance with the state’s procurement code.

Eligible Applicants

Counties, municipalities, special districts, and state agencies may apply individually or collectively for the recycling incentives funds.

Program Requirements

To be eligible, the waste tire product(s) purchased by the eligible applicant must be:

- a.) Used for a public project;
- b.) Used on property owned by the state, a local government or public school district;
- c.) Made with Colorado-generated waste tires;
- d.) Materials must be purchased in accordance with standard bidding procedures (or provide sole-source documentation);
- e.) State agencies must follow procurement standards set up in CRS 24-101-101 et seq.

The application must be signed by a chief elected official, school superintendent, or chief administrative official authorized to sign contracts on behalf of the local government or state agency.

Criteria

In order to allocate limited program funds fairly, and to accomplish maximum positive results from the program, applications will be evaluated based on the following criteria:

- Benefit to Colorado
- Number of tires consumed
- Priority will be given to applicants that are not previous recipients of these grant funds.
- Life cycle costs and savings inherent in the product

- Readiness of project to start (necessary permits in place, environmental impact is okayed, land use is appropriate, etc.)
- Value project offers as a demonstration of the use of waste tires
- Ability of applicant to contribute cash matching funds towards the project
- Revenue availability in fund
- Leverages research done under tire research grants

Processing of Applications

Eligible applicants may apply using the Recycling Incentives Reimbursement Application, and all required attachments which can be found in this packet. All applications will be reviewed for completeness and eligibility. If an application is not complete as required, the applicant will be required to submit the missing information within a prescribed time period.

Reimbursement Process

The Colorado Waste Tire Program may reimburse the applicant a portion of the cost, up to 75 percent of the product cost. ***No program grant funds may be expended until a contract between the grantee and the Department of Local Affairs has been executed.*** Once the grantee has received an executed contract from the department and upon the completion of the project, the following documentation must be submitted:

1. A completed Status Report and Pay Request form signed by the chief elected official or designee;
2. Copies of invoices and proof of payment in full for the completed project (i.e., copy of warrant/check or list of check number(s), amount(s), and date(s) paid);
3. A project completion report also signed by the chief elected official or designee which includes:
 - a.) The dates the project was initiated and completed;
 - b.) A description of how the material was used in the public project;
 - c.) The number of tires reused as a result of the project;
 - d.) Assurances all project activities were completed as specified in the contract;
 - e.) An accounting of actual project expenditures; and
 - f.) Assurances the grantee complied with all contractual provisions attached to this application and all records related to grant activities are available upon request.

Upon receipt of all required documents, the department will reimburse the grantee the amount of the award letter or contract, an amount no greater than 75% of actual product costs. Projects have to be completed in a reasonable amount of time (which will be reflected in the state contract) to adhere to state spending authority constraints.

The director will defer reimbursement to the applicant until adequate information is received.

Ineligible Expenses

Ineligible expenses include but are not limited to:

- Mobilization fees
- Shipping costs
- Labor
- Administration costs
- Site preparation

Eligible Products

The following is a list of products, which may qualify under the program. This list is not intended to be exclusive and other uses beyond those listed may be considered:

1. Transportation uses including rubber from tires in:
 - Asphalt
 - Crack sealants
 - Repair membranes
 - Railroad crossings (at intersections with roads)

- Recreational use trails
 - Road beds
2. Rubber products
 - Rubber mats (“agrimats” used in horse and cow barns, mats for playground surfaces and for workers on their feet for long periods of time)
 - Playturf (small rubber chips in place of pea gravel, for example, in playgrounds)
 - Rubber in equestrian arenas
 - Rubberized paths and running trails in parks, playgrounds and open space
 - Tire bales used in retaining walls and construction projects
 - Parking lot bumper stops
 - Rubberized “lumber” for walkways, bench slats, landscape timbers, posts, fencing
 - Rubberized sewer pipes
 3. Top dressing, soil amendments and sewage sludge composting
 - Soil amendments for golf courses, football fields, baseball fields, soccer fields, and other highly trafficked areas (outdoor concert arenas, public parks with a high volume of foot traffic)
 - Soil amendments for agriculture (green houses, flower beds etc.)
 - For composting sewage treatment plant sludge
 4. Civil engineering applications
 - As lightweight aggregate in fill
 - Additive to embankments
 - As sub-grade thermal insulation
 - As backfill behind retaining walls
 - Shredded as fill in landfills
 - In septic fields
 5. Fuel
 - As tire-derived fuel in cement kilns, boiler fuels, supplemental coal or wood fuel
 - In pyrolysis applications
 - In cryogenic applications

Project #: _____

Date Received: _____

SB 90 Compliant: _____

**COLORADO WASTE TIRE GRANT PROGRAM
Recycling Incentives Reimbursement Application**

Entity's Name _____

Type of Applicant ___County* ___Municipality* ___Special District ___State Agency

*** County and Municipal applicants only:** Have you complied with Immigration Certification?
(In accordance with SB 06-90 - concerning local government cooperation with federal officials regarding the immigration status of persons in this state.)
 Yes No *(If no, this project is not eligible for the Waste Tire Grant Program)*

Address (where checks will be sent) _____

City _____ State _____ Zip _____ County _____

Name of Primary Contact Person _____

Title _____

Address (for contact person - if different than above) _____

City _____ State _____ Zip _____ County _____

Phone _____ Fax _____

Email _____

1. Description of product(s) made with Colorado-generated recycled tire being considered for purchase:

2. Description of the public project:

a.) Project Start Date: _____
*(Note: An entity cannot be reimbursed for the purchase of products dated **before** the date on the "notice of grant award" letter from the Waste Tire Program.)*

b.) Estimated End Date: _____

3. Location(s) where the product(s) will be used:

4. Is this location on property owned by the state, a local government or public school district?

Yes No *(If no, this project is not eligible for the Waste Tire Grant Program)*

5. Total cost of your project: _____

6. Total cost of your recycled waste tire product, excluding all ineligible expenses (reference guidelines) **Please attach applicable price quotes:** _____

7. Unit cost of recycled tire product (e.g., \$\$/lb. or \$\$/Ton) _____

8. What is the applicant providing in dollar match for the project? _____
9. Supplier of the product: _____
- Contact name: _____ Phone: _____
- Include the "Documentation of Competitive Selection Process" form (Attachment A)
 - Include the "Colorado Tires Certificate" signed by the supplier, the installer (if applicable) and the applicant stating the waste tires are Colorado-generated (Attachment B).
10. Weight (in lbs.) of waste tires being purchased: _____
11. **For State Agencies Only:** Have you complied with the State of Colorado's procurement code in arranging for the purchase of this product? (C.R.S. 24-101-101 et seq)
- Yes No (If no, this project is not eligible for the Waste Tire Grant Program)

Important Message: This is a grant *reimbursement* program. Applicants will be notified about the amount of funds the Department of Local Affairs will award to your project, an amount up to but not to exceed 75% of the total cost of actual **product** purchased.

No program grant funds may be expended until a contract between the grantee and the Department of Local Affairs has been executed. Once the grantee has received an executed contract from the department and upon the completion of the project, the following documentation must be submitted:

1. A completed Status Report and Pay Request form signed by the chief elected official or designee;
2. Copies of invoices and proof of payment in full for the completed project (i.e., copy of warrant/check or list of check number(s), amount(s), and date(s) paid);
3. A project completion report also signed by the chief elected official or designee which includes:
 - a.) The dates the project was initiated and completed;
 - b.) A description of how the material was used in the public project;
 - c.) The number of tires reused as a result of the project;
 - d.) Assurances all project activities were completed as specified in the contract;
 - e.) An accounting of actual project expenditures; and
 - f.) Assurances the grantee complied with all contractual provisions attached to this application and all records related to grant activities are available upon request.

Upon receipt of all required documents, the department will reimburse the grantee the amount of the award letter or contract, an amount no greater than 75% of actual product costs. Projects have to be completed in a reasonable amount of time (which will be reflected in the state contract) to adhere to state spending authority constraints.

Checklist for Attachments: The attachments below must be included with the application. If an attachment is not included, the application is incomplete and will be delayed in the review process.

Attachment A: Documentation of Competitive Selection Process	<input type="checkbox"/> Submitted
Attachment B: Colorado Tires Certification	<input type="checkbox"/> Submitted

NOTICE TO APPLICANT: The Contractor's submission of this application constitutes an offer, acceptance of which shall result in a binding contract effective upon acceptance of the application and award of the grant. The terms of any resulting contract will include the Award letter and the applicant's Colorado Waste Tire Program Recycling Incentives Application Packet (including the General Provisions and the Colorado Special Provisions), which are incorporated hereby by reference.

The application must be signed by a chief elected official, school superintendent, or chief administrative official authorized to sign contracts on behalf of the local government or state agency.

ACCEPTANCE

By signing below, I certify that my agency has followed all application requirements for these funds and that I have the authority to enter into this contract as a representative of the applicant.

Applicant: _____

Address _____

City _____ State _____ Zip _____

Phone _____ Fax _____

Email _____

Please print name _____

Signature (Full Legal Name) _____

Position/Title _____

(Proof of signature authority must be included if other than chief elected official or superintendent)

Date _____

Mail Completed Application and all Attachments to:

Colorado Waste Tire Program
Department of Local Affairs
Division of Local Government
1313 Sherman Street, Room 521
Denver, CO 80203

Attachment A Documentation of Competitive Selection Process

Project Description: _____

	Company	Base Bid	Addendum	Total
1.				
2.				
3.				
4.				
5.				

A **minimum of 2 bids** must be documented for the competitive selection process.

If a "sole source" provider was determined, explain how this was established: _____

How were bids conducted?

- Formal bid process
- Phone calls
- Other - describe: _____

ATTACHMENT B
Colorado Tires Certification

I hereby certify the waste tire material used in this project is from Colorado generated waste tires which were discarded, worn, or damaged and removed from a vehicle as the result of a sale, trade, or exchange in Colorado or from a Colorado tire pile that existed prior to September 3, 1999.

Processor/Company #1: _____

Signature: _____

Print Name: _____

Title: _____

Date: _____

Processor/Company #2 *(if applicable)*: _____

Signature: _____

Print Name: _____

Title: _____

Date: _____

Applicant Name: _____

Signature: _____

Project Name: _____

Date: _____

Applications submitted without **all** signatures on "Attachment B" are considered incomplete.

State/Local Government Contract Attachment Forms:
COLORADO WASTE TIRE PROGRAM APPLICATION
GENERAL PROVISIONS for the Recycling Incentive Reimbursement Application

1. Payment and Limitation of Funds. Upon award of the grant, the state will pay to the Contractor, in consideration for the work and services to be performed, an amount not to exceed the amount awarded. The method and time that payment shall be made is cost reimbursement, payment of up to seventy-five (75%) of approved project costs, payment being made at the completion of the project and only after all required reports have been submitted and approved.

Financial obligations of the State of Colorado payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted and otherwise made available.

2. Contract Termination. This Contract may be terminated as follows:

a.) Termination Due to Loss of Funding. The parties hereto expressly recognize that the Contractor is to be paid, reimbursed, or otherwise compensated with funds provided to the State for the purpose of contracting for the services provided for herein, and therefore, the Contractor expressly understands and agrees that all its rights, demands and claims to compensation arising under this Contract are contingent upon receipt of such funds by the State. In the event that such funds or any part thereof are not received by the State, the State may immediately terminate or amend this Contract to adjust the amount payable hereunder.

b.) Termination for Cause. If, through any cause, the Contractor shall default in the performance of its obligations under this Contract, the State shall thereupon have the right to terminate this Contract for cause by giving written notice to the Contractor of such termination and at least ten (10) days opportunity to cure the default or show cause why termination is otherwise not appropriate.

Notwithstanding the above, the Contractor shall not be relieved of liability to the State for any damages sustained by the State by virtue of any breach of the Contract by the Contractor, and the State may withhold any payments to the Contractor for the purpose of setoff until such time as the exact amount of damages due the State from the Contractor is determined.

If after such termination it is determined, for any reason, that the contractor was not in default, or that the contractor's action/inaction was excusable, such termination shall be treated as a termination for convenience, and the rights and obligations of the parties shall be the same as if the contract had been terminated for convenience, as described herein.

c.) Termination for Convenience. The State may terminate this Contract at any time the State desires. The State shall effect such termination by giving written notice of termination to the Contractor and specifying the effective date thereof, at least twenty (20) days before the effective date of such termination. The respective rights and obligations of the parties shall be as set forth in the clause, Termination for Convenience, Procurement Rule R-24-106-101-08, 1 Code of Colorado Regulation 101-9.

3. Conflict of Interest. The Contractor shall comply with the provisions of C.R.S. 18-8-308 and C.R.S. 24-18-101 through 24-18-109.

4. Modification and Amendment.

a) Modification by Operation of Law. This Contract is subject to such modifications as may be required by changes in federal or state law or regulations. Any such required modifications shall be incorporated into and be part of this Contract as if fully set forth herein.

~~b) Unilateral Amendment. The State may unilaterally modify the following portions of this Contract when such modifications are requested by the Contractor or determined by the State to be~~

necessary and appropriate. In such cases, the Amendment is binding upon execution of the Amendment by the State Controller's Department designee and without the signature of the Contractor.

~~i) Paragraph 3 of this Contract, "Time of Performance";~~

~~Contractor must submit a written request to the department if programmatic or budgetary modifications are required. Amendments to this contract for the provisions outlined in this paragraph 4 b.i): Time of Performance can be executed by the state (Exhibit 3).~~

5. Audit.

a) Discretionary Audit. The State, through the Executive Director of the Department, the State Auditor, or any of their duly authorized representatives, including the right to hire an independent Certified Public Account of the State's choosing, or the federal government or any of its properly delegated or authorized representatives shall have the right to inspect, examine, and audit the Contractor's (and any subcontractor's) records, books, accounts and other relevant documents. Such discretionary audit may be requested at any time and for any reason from the effective date of this Contract until five (5) years after the date the Contractor receives final payment for this Project, provided that the audit is performed during normal business hours.

b) Mandatory Audit. Whether or not the State calls for a discretionary audit as provided above, the Contractor shall include the Project in an annual audit report as required by the Colorado Local Government Audit Law, C.R.S. 1973, 29-1-601, et seq and the Single Audit Act of 1996, P.L. 104-156, and Federal and State implementing rules and regulations. Such audit reports shall be simultaneously submitted to the Department and the State Auditor. Thereafter, the Contractor shall supply the Department with copies of all correspondence from the State Auditor related to the relevant audit report. If the audit reveals evidence of non-compliance with applicable requirements, the Department reserves the right to institute compliance or other appropriate proceedings notwithstanding any other judicial or administrative actions filed pursuant to C.R.S. 1973, 29-1-607 or 29-1-608.

6. Assignment. The contractor may not assign its rights or duties under this Contract without prior written consent of the state.

7. Order of Precedence. Any inconsistency or conflict in this contract shall be resolved by giving precedence in the following order:

- (a) Colorado Special Provisions (which are incorporated by reference to this Contract's Program Application Guidelines);
- (b) General Provisions (which are incorporated by reference to this Contract's Program Application Guidelines); and
- (c) The Colorado Waste Tire Program Recycling Incentives Reimbursement Application.

8. Severability.

To the extent that this contract may be executed and performance of the obligations of the parties may be accomplished within the intent of the contract, the terms of this contract are severable and should any term or provision hereof be declared invalid or become inoperative for any reason, such invalidity or failure shall not affect the validity of any other term or provision hereof. The waiver of any breach of a term hereof shall not be construed as waiver of any other term nor as waiver of a subsequent breach of the same term.

9. Indemnification.

Intergovernmental Grants. If this is an intergovernmental Grant, the provisions hereof shall not be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protection, or other provisions, of the Colorado Governmental Immunity Act, CRS 24-10-101 et seq., or the Federal Tort Claims Act, 28 U.S.C. 2671 et seq., as applicable, as now or hereafter amended.

SPECIAL PROVISIONS

These Special Provisions apply to all contracts except where noted in *italics*.

- 1. CONTROLLER'S APPROVAL. CRS §24-30-202(1).** This contract shall not be valid until it has been approved by the Colorado State Controller or designee.
- 2. FUND AVAILABILITY. CRS §24-30-202(5.5).** Financial obligations of the State payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.
- 3. GOVERNMENTAL IMMUNITY.** No term or condition of this contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, of the Colorado Governmental Immunity Act, CRS §24-10-101 et seq., or the Federal Tort Claims Act, 28 U.S.C. §§1346(b) and 2671 et seq., as applicable now or hereafter amended.
- 4. INDEPENDENT CONTRACTOR.** Contractor shall perform its duties hereunder as an independent contractor and not as an employee. Neither Contractor nor any agent or employee of Contractor shall be deemed to be an agent or employee of the State. Contractor and its employees and agents are not entitled to unemployment insurance or workers compensation benefits through the State and the State shall not pay for or otherwise provide such coverage for Contractor or any of its agents or employees. Unemployment insurance benefits will be available to Contractor and its employees and agents only if such coverage is made available by Contractor or a third party. Contractor shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this contract. Contractor shall not have authorization, express or implied, to bind the State to any agreement, liability or understanding, except as expressly set forth herein. Contractor shall **(a)** provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, **(b)** provide proof thereof when requested by the State, and **(c)** be solely responsible for its acts and those of its employees and agents.
- 5. COMPLIANCE WITH LAW.** Contractor shall strictly comply with all applicable federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.
- 6. CHOICE OF LAW.** Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this contract. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. Any provision incorporated herein by reference which purports to negate this or any other Special Provision in whole or in part shall not be valid or enforceable or available in any action at law, whether by way of complaint, defense, or otherwise. Any provision rendered null and void by the operation of this provision shall not invalidate the remainder of this contract, to the extent capable of execution.
- 7. BINDING ARBITRATION PROHIBITED.** The State of Colorado does not agree to binding arbitration by any extra-judicial body or person. Any provision to the contrary in this contract or incorporated herein by reference shall be null and void.
- 8. SOFTWARE PIRACY PROHIBITION. Governor's Executive Order D 002 00.** State or other public funds payable under this contract shall not be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or applicable licensing restrictions. Contractor hereby certifies and warrants that, during the term of this contract and any extensions, Contractor has and shall maintain in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that Contractor is in violation of this provision, the State may exercise any remedy available at law or in equity or under this contract, including, without limitation, immediate termination of this contract and any remedy consistent with federal copyright laws or applicable licensing restrictions.
- 9. EMPLOYEE FINANCIAL INTEREST/CONFLICT OF INTEREST. CRS §§24-18-201 and 24-50-507.** The signatories aver that to their knowledge, no employee of the State has any personal or beneficial interest whatsoever in the service or property described in this contract. Contractor has no interest and

shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of Contractor's services and Contractor shall not employ any person having such known interests.

10. VENDOR OFFSET. CRS §§24-30-202 (1) and 24-30-202.4. [Not Applicable to intergovernmental agreements] Subject to CRS §24-30-202.4 (3.5), the State Controller may withhold payment under the State's vendor offset intercept system for debts owed to State agencies for: **(a)** unpaid child support debts or child support arrearages; **(b)** unpaid balances of tax, accrued interest, or other charges specified in CRS §39-21-101, et seq.; **(c)** unpaid loans due to the Student Loan Division of the Department of Higher Education; **(d)** amounts required to be paid to the Unemployment Compensation Fund; and **(e)** other unpaid debts owing to the State as a result of final agency determination or judicial action.

11. PUBLIC CONTRACTS FOR SERVICES. CRS §8-17.5-101. [Not Applicable to agreements relating to the offer, issuance, or sale of securities, investment advisory services or fund management services, sponsored projects, intergovernmental agreements, or information technology services or products and services] Contractor certifies, warrants, and agrees that it does not knowingly employ or contract with an illegal alien who will perform work under this contract and will confirm the employment eligibility of all employees who are newly hired for employment in the United States to perform work under this contract, through participation in the E-Verify Program or the Department program established pursuant to CRS §8-17.5-102(5)(c), Contractor shall not knowingly employ or contract with an illegal alien to perform work under this contract or enter into a contract with a subcontractor that fails to certify to Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this contract. Contractor **(a)** shall not use E-Verify Program or Department program procedures to undertake pre-employment screening of job applicants while this contract is being performed, **(b)** shall notify the subcontractor and the contracting State agency within three days if Contractor has actual knowledge that a subcontractor is employing or contracting with an illegal alien for work under this contract, **(c)** shall terminate the subcontract if a subcontractor does not stop employing or contracting with the illegal alien within three days of receiving the notice, and **(d)** shall comply with reasonable requests made in the course of an investigation, undertaken pursuant to CRS §8-17.5-102(5), by the Colorado Department of Labor and Employment. If Contractor participates in the Department program, Contractor shall deliver to the contracting State agency, Institution of Higher Education or political subdivision a written, notarized affirmation, affirming that Contractor has examined the legal work status of such employee, and shall comply with all of the other requirements of the Department program. If Contractor fails to comply with any requirement of this provision or CRS §8-17.5-101 et seq., the contracting State agency, institution of higher education or political subdivision may terminate this contract for breach and, if so terminated, Contractor shall be liable for damages.

12. PUBLIC CONTRACTS WITH NATURAL PERSONS. CRS §24-76.5-101. Contractor, if a natural person eighteen (18) years of age or older, hereby swears and affirms under penalty of perjury that he or she **(a)** is a citizen or otherwise lawfully present in the United States pursuant to federal law, **(b)** shall comply with the provisions of CRS §24-76.5-101 et seq., and **(c)** has produced one form of identification required by CRS §24-76.5-103 prior to the effective date of this contract.

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