



OMB Releases Recovery Act Reporting Guidelines

April 3, 2009 – The Office of Management and Budget (OMB) released guidance to assist federal agencies, state and local governments and other recipients of stimulus funding in complying with the reporting requirements of the American Recovery and Reinvestment Act of 2009 (Recovery Act). President Obama’s commitment to “investing Recovery Act dollars with an unprecedented level of transparency and accountability” will drive special internal controls and reporting requirements among agencies at all levels of government.

The OMB guidance supplements, amends and clarifies its initial guidance on February 18, 2009. The full text of the OMB memo can be found at <http://www.recovery.gov/?q=node/317>.

BACKGROUND

The Recovery Act funding is designed to create jobs and invest in science, health care, transportation, education and energy efficiency. Monies will be distributed via formula or competitive grants directly from federal agencies or through state and local governments. Each federal agency and recipient is required to report quarterly on the use of funds and program outcomes. This new level of reporting will increase administrative burdens on state and local governments and other primary recipients of Recovery Act dollars. Whether government or commercial enterprises, organizations looking to benefit from the use of these funds will need to plan for and address these additional requirements.

Federal agencies are required to develop agency-wide and program-specific plans for the use of Recovery Act funds. Drafts are due by May 1, 2009, with final plan completion by May 15, 2009. Organizations that receive stimulus funds should target the investment to realize short-term economic activity while positioning their investment decisions to sustain longer-term social outcomes.

KEY POINTS

Obtaining grants/loans

Federal grant opportunities can be found at grants.gov. In addition, organizations should look to state and local Web sites for information on funding opportunities through state or local entities. Given the extensive additional reporting requirements placed on prime recipients, organizations should evaluate whether they have the necessary reporting and internal control capabilities in-house or if partnering with an experienced government vendor or provider would be more efficient. The guidance favors fixed-price contracts, and recipients will typically need to work under those constraints.

The OMB guidance exhorts federal agencies to contact potential applicants to assist them in completing the process for Central Contractor Registration (CCR) and obtaining a Dun and Bradstreet Universal Numbering System (DUNS) number. Entities seeking direct Recovery Act funding should act quickly to complete this activity.

OMB requires that grant agreements with federal agencies describe how recipients will fulfill reporting requirements under the Recovery Act, including report development and submission, accurate and timely data reporting, and special posting requirements to the respective agency Web sites and *Recovery.gov*. In addition, organizations receiving loans related to the Recovery Act will also need to continue to comply with standard agency practices and federal credit policies under OMB Circular A-129.

Recipients of grants or loans will be required to promptly refer any credible evidence of intentional over-billing or false claim submitted for products or services associated with stimulus funding. A criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct should be referred to an appropriate inspector general.

Reporting

Recovery Act funds must not be commingled with other federal, state or local funds. The U.S. Department of the Treasury has developed a unique set of Treasury Appropriation Fund Symbols to track funding of Recovery Act appropriations separately from other government programs. Entities receiving these funds will have to be able to segregate these dollars in their budget execution reporting.

The Recovery Act defines “recipient” as any entity that receives Recovery Act funds directly from the federal government, including states and prime non-federal recipients. As a result, prime recipients are responsible for reporting on their use of funds and on any sub-awards they make. This means local governments and subcontractors must adhere to these reporting requirements so program and financial information rolls properly to the federal agencies.

Full reporting requirements will be effective on October 10, 2009, for all recipients, with interim reporting of a simplified set of data likely due July 10, 2009. The initial report submitted on October 10, 2009, will include data on all cumulative activity since the Recovery Act’s passage, including all sub-awards. As a result, recipients need to begin tracking this data as soon as possible.

Unfortunately, detailed reporting instructions may not be available at *www.FederalReporting.gov* until August 26, 2009. Organizations using funds now need to establish tracking mechanisms even though complete data reporting formats may not be immediately available.

To facilitate this process, OMB provided instructions for reporting requirements and formats in the guidance appendices. OMB will create a central collection system for the Recovery Act’s required reporting information. While this information serves as a good baseline set of requirements, recipients should consider building some flexibility into their tools and processes to respond to late changes in the data or formats requested.

Note that the reporting required by Section 1512 of the Recovery Act is the minimum requirement. Specific federal agencies may require additional information and will reflect these requirements in their award terms and conditions. Since the Recovery Act Transparency Board is still forming, additional reporting requirements may emerge in the future.

Job creation calculation

Section 1512(c)3(D) of the Recovery Act requires non-federal recipients receiving funding through discretionary appropriations to provide data on the creation of jobs. The OMB worked with agencies to include job-reporting requirements in the terms and conditions

of contract, grant and loan agreements. The requirements state that prime recipients should provide a description of the employment impact of work funded by the Recovery Act, including the types of jobs and an estimate of the number of jobs created or retained by project and activity or contract. Reporting is only required for jobs with compensation. In addition, certain recipients that receive Department of Transportation funds have job-reporting requirements that go beyond Section 1512 and should comply with program and agency-specific requirements.

Prime recipients are encouraged to work closely with their Governors and State Workforce Investment Boards to facilitate the listing of all jobs generated through the Recovery Act on their state job banks.

Federal oversight

The stimulus legislation empowers the Recovery Accountability and Transparency (RAT) Board with the responsibility of monitoring the fulfillment of the Act’s key objectives. These objectives include:

- Funds are awarded and distributed in a prompt, fair and reasonable manner;
- The recipients and uses of all funds are transparent to the public, and the public benefits of these funds are reported clearly, accurately, and in a timely manner;
- Funds are used for authorized purposes, and instances of fraud, waste, error and abuse are mitigated;
- Projects funded under this Act avoid unnecessary delays and cost overruns; and
- Program goals are achieved, including specific program outcomes and improved results on broader economic indicators.

The RAT Board will monitor funds use by requiring non-federal entities to have an annual audit of their federal awards as required by the Single Audit Act Amendments of 1996 (Single Audit) and OMB Circular A-133.

The OMB guidance includes the following risk accountability framework.

Recovery Act Accountability Framework and Objectives

	Pre-Award	Performance Period		Post-Performance Period
Strategic	Program Outcomes and Economic Outcomes Achieved			
	Competitive (and Fixed Price) Opportunities Maximized			
	Wasteful Spending, Fraud, and Abuse Identified and Minimized			
Operations	Funds Obligated Timely	Funds Expended Timely	Undelivered Orders Minimized	Sunset of Recovery Requirements
	Improper Payments Minimized			
	Timely and Accurate Data Reported to Recovery.gov			
Reporting Compliance	Agency and Program Plans Approved	Agency and Program Plan Milestones Completed by Estimated Dates		
	Spend-Plan Approved	Spend-Plan Milestones Completed by Estimated Dates		

SOURCE: Updated Implementing Guidance for the American Recovery and Reinvestment Act of 2009; April 3, 2009

The Recovery Act requires federal agencies to conduct a program risk analysis and request the OMB to designate any high-risk programs as Single Audit major programs that must be tested in a specific year. Recipients should clarify whether specific programs have been designated in this fashion.

Finally, the OMB guidance requires federal agencies to initiate additional oversight, beyond standard practice, to mitigate the unique implementation risks of the Recovery Act. These include additional actions and reviews to create higher levels of performance management and accountability, enhance internal controls and implement additional measures to address higher risk areas. As a result, recipients should be prepared for additional agency scrutiny.

IMPACT ON ORGANIZATIONS

Given the increased transparency and reporting requirements, those looking to use Recovery Act funds need to prepare the appropriate reporting and control mechanisms before initiating efforts under a specific program. Recreating and validating the information after funds have been allocated and disbursed will be costly and time consuming. Following is a checklist of actions organizations should take in preparation for receiving funding.

Prior to seeking funding:

- Establish a process to monitor federal and state Web sites for funding opportunities
- Complete the CCR
- Obtain a DUNS number

Prior to receiving funding:

- Review Single Audit readiness
- Establish accounting mechanisms to segregate Recovery Act funds from other funding sources
- Establish management reporting processes for both financial and programmatic results
- Conduct an internal control review to prepare for additional agency scrutiny

To avoid legal and public relations issues over the next 12 to 18 months as congressional and agency scrutiny predictably increases, organizations receiving funds should take preparatory steps today.

HOW JEFFERSON WELLS CAN HELP

Jefferson Wells has extensive experience assisting federal, state and local public sector agencies in meeting grant and other reporting requirements. Our professionals are currently helping a Midwestern state meet specific Recovery Act requirements, and through the years, we've worked closely with numerous other states and cities on internal control, financial process improvement and reporting initiatives, including engagements where process implementation had to be fast-tracked.

Our experience creating regulatory compliance and other control structures equips us to assist commercial enterprises in evaluating opportunities and implementing plans to capture stimulus funding while managing risks.

We provide project management, internal audit, construction audit, contract compliance,

fraud risk mitigation, technology risk management and tax services to organizations in the public sector and the energy, financial services, health care, manufacturing and mining industries.

For additional information, please contact your local Jefferson Wells office.

Jefferson Wells delivers professional services in the areas of internal audit and controls, technology risk management, tax, and finance and accounting. We serve clients, including Fortune 500 and Global 1000 companies, from offices worldwide.

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