SUMMARY OF KEY ARRA REQUIREMENTS

OMB APRIL 13, 2009 GUIDANCE

From Pages 123-127

SUPPLEMENTARY INFORMATION:

I. BACKGROUND

A. **Section 1512**(c) of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5, hereafter referred to as "the Recovery Act" or "the Act") requires, as a condition of receipt of funds, quarterly reporting on the use of funds. The data elements proposed for reporting the information described in section 1512(c) were published in the Federal Register on April 1, 2009 [74 FR 14824]. An entity that receives assistance funding under the Recovery Act must **report information** including, but not limited to,

i. the total amount of recovery funds received from that agency;
ii. the amount of recovery funds received that were expended or obligated to projects or activities; and
iii. a detailed list of all projects or activities for which recovery funds were expended or obligated, including—

Reporting Requirements

1. the name of the project or activity;

2. a description of the project or activity;

3. an evaluation of the completion status of the project or activity;

4. an estimate of the number of jobs created and the number of jobs retained by the project or activity; and

5. for infrastructure investments made by State and local governments, the purpose, total cost, and rationale of the agency for funding the infrastructure investment with funds made available under this Act, and name of the person to contact at the agency if there are concerns with the infrastructure investment.

iv. Detailed information on any subcontracts or sub-grants awarded by the recipient to include the data elements required to comply with the Federal Funding Accountability and Transparency Act of 2006, as amended (Public Law 109-282, hereafter referred to as "the Transparency Act"), allowing aggregate reporting on awards below $25,000 or to individuals, as prescribed by the Director of the Office of Management and Budget. The Transparency Act identifies specific data elements that the website (USAspending.gov) must include for each federal award and authorizes OMB to specify additional elements for other relevant information. A 2008 amendment to the Transparency Act called the "Government Funding Transparency Act of 2008" (Public Law 110-252) added a requirement to collect compensation information on certain chief executive officers (CEOs) of the recipient and sub-recipient entity. An entity that receives assistance

funding under the Recovery Act must report information required under the Transparency Act including, but not limited to,

1. The name of the entity receiving the award;

2. The amount of the award;

3. The transaction type;

4. The funding agency;

5. The Catalog of Federal Domestic Assistance number;

6. The program source;

7. The location of the entity receiving the award, including four data elements for the city, State, Congressional district, and country;

8. The location of the primary place of performance under the award, including four data elements for the city, State, Congressional district, and country;

9. A unique identifier of the entity receiving the award;

10. A unique identifier of the parent entity of the recipient, should the recipient be owned by another entity; and

11. The names and total compensation of the five most highly compensated officers of the company if it received (1) 80% or more of its annual gross revenues in Federal awards; and (2) $25M or more in annual gross revenue from Federal awards.

CCR Registration

B. Section 1512(h) of the Recovery Act requires recipients of Recovery Act funds, including those receiving funds directly from the Federal government, to register in the Central Contractor Registration (CCR) database at www.ccr.gov. Because recipients must report information on their first-tier contracts and awards, the proposed guidance also would establish a requirement for sub-recipient registration in the CCR as a way to help ensure consistent reporting of data about each entity and thereby make the data more useful to the public. Without the requirement, multiple recipients doing business with the same entity may use different variations of the entity's name, address, or parent organization when they each report on their awards to the entity. It should be noted that in order to register in CCR, a valid Data Universal Numbering System (DUNS) Number is required.

Buy American

C. **Section 1605** of the Recovery Act requires that projects, funded by the Recovery Act, for the construction, alteration, maintenance, or repair of a public building or public work **use American iron, steel, and manufactured goods** in the project unless one of the specified exemptions applies. The Act provides that this

Davis Bacon

D. **Section 1606** of the Recovery Act requires the **payment of Davis-Bacon Act (40 USC 31) wage rates to "laborers and mechanics employed by contractors and subcontractors** on projects funded directly by or assisted in whole or in part by and through the Federal Government" pursuant to the proposed Recovery Act.

Separate Accounting

E. To maximize the transparency and accountability of funds authorized under the Recovery Act as required by Congress and in accordance with 2 CFR 215, sub-part ___. 21 "Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and other Non-Profit Organizations" and OMB Circular A-102 Common Rules provisions, **recipients agree to maintain records that identify adequately the source and application of Recovery Act funds.** Guidance and an award term are provided in part 176 to help ensure that recipients understand their responsibilities with respect to tracking, accounting and reporting transactions during the award and in preparing audit documentation and reports in accordance with OMB Circular A-133, if applicable.

From Page 134

§176.50 Award term--Reporting and Registration Requirements under Section 1512 of the Recovery Act.

Agencies are responsible for ensuring that their recipients report information required under the Recovery Act in a timely manner. The following award term shall be used by agencies to implement the recipient reporting and registration requirements in section 1512:

Reporting and Registration Requirements under Section 1512 of the American Recovery and Reinvestment Act of 2009, Public Law 111-5

Subcontract Award Term – Reporting, etc.

(a) This award requires the recipient to complete projects or activities which are funded under the American Recovery and Reinvestment Act of 2009 ("Recovery Act") and to report on use of Recovery Act funds provided through this award. Information from these reports will be made available to the public.

(b) The **reports are due no later than ten calendar days after each calendar quarter** in which the recipient receives the assistance award funded in whole or in part by the Recovery Act.

(c) Recipients and their first-tier recipients must maintain current registrations in the Central Contractor Registration (www.ccr.gov) at all times during which they have active federal awards funded with Recovery Act funds. A Dun and Bradstreet Data Universal Numbering System (DUNS) Number (www.dnb.com) is one of the requirements for registration in the Central Contractor Registration.

(d) The recipient shall report the information described in section 1512(c) using the reporting instructions and data elements that will be provided online at

www.FederalReporting.gov and ensure that any information that is pre-filled is corrected or updated as needed.
(End of award term)

From Page 51:

Waste, Fraud & Abuse

....Each grantee or sub-grantee awarded funds made available under the Recovery Act shall promptly refer to an appropriate inspector general any credible evidence that a principal, employee, agent, contractor, sub-grantee, subcontractor, or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving those funds.

EXCERPT FROM THE ARRA

WHISTLEBLOWER PROTECTION

Section 1553 of the Recovery Act, ‘‘Protecting State and Local Government and Contractor Whistleblowers’’. This requirement promotes transparency in Federal contracting.

SEC. 1553. PROTECTING STATE AND LOCAL GOVERNMENT AND CONTRACTOR WHISTLEBLOWERS.

Whistleblower Protection

(a) PROHIBITION OF REPRISALS.—An employee of any non-Federal employer receiving covered funds may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing, including a disclosure made in the ordinary course of an employee’s duties, to the Board, an inspector general, the Comptroller General, a member of Congress, a State or Federal regulatory or law enforcement agency, a person with supervisory authority over the employee (or such other person working for the employer who has the authority to investigate, discover, or terminate misconduct), a court or grand jury, the head of a Federal agency, or their representatives, information that the employee reasonably believes is evidence of—
(1) gross mismanagement of an agency contract or grant relating to covered funds;
(2) a gross waste of covered funds;
(3) a substantial and specific danger to public health or safety related to the implementation or use of covered funds;
(4) an abuse of authority related to the implementation or use of covered funds; or
(5) a violation of law, rule, or regulation related to an agency contract (including the competition for or negotiation of a contract) or grant, awarded or issued relating to covered funds.

EXCERPT FROM THE FEDERAL ACQUISITION REGULATIONS (FARS):

3.907–7 Contract Clause.

Use the clause at 52.203–15, Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009 in all solicitations and contracts funded in whole or in part with Recovery Act funds.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 5. Add section 52.203–15 to read as follows:

52.203–15 Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009

As prescribed in 3.907–7, use the following clause:

Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009 (Mar 2009)

(a) The Contractor shall post notice of employees rights and remedies for whistleblower protections provided under section 1553 of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111–5).

(b) The Contractor shall include the substance of this clause including this paragraph (b) in all subcontracts

PUBLIC INFORMATION

EXCERPT FROM ARRA

SEC. 1511. CERTIFICATIONS.

With respect to covered funds made available to State or local governments for infrastructure investments, the Governor, mayor, or other chief executive, as appropriate, shall certify that the infrastructure investment has received the full review and vetting required by law and that the chief executive accepts responsibility that the infrastructure investment is an appropriate use of taxpayer dollars. Such certification shall include a description of the investment, the estimated total cost, and the amount of covered funds to be used, and **shall be posted on a website and linked to the website established by section 1526.** A State or local agency may not receive infrastructure investment funding from funds made available in this Act unless this certification is made and posted.

Post Certifications on Website