

Recovery Act Money: Opportunities and Responsibilities

Since the American Recovery and Reinvestment Act of 2009 (the Recovery Act) was signed into law in February 2009, many not-for profit organizations have begun receiving grant awards for their share of the approximately \$300 billion of funds being awarded by federal agencies. Many other agencies continue to submit grant applications as funding becomes available. With the unprecedented amount of federal stimulus funds available, and the speed at which the monies are being awarded, the Office of Management and Budget (OMB) has committed to provide transparency and accountability to the American taxpayers. As a result, nonprofit organizations receiving Recovery Act funds should be aware of this increased scrutiny and take steps to ensure compliance with grant requirements.

Along with the passage of the Recovery Act, the OMB has continued to issue guidance to federal agencies, organizations receiving the Recovery Act funding and to auditors of the Recovery Act funds. OMB Memoranda M-09-10 and M-09-15 include general guidance relating to the federal agencies' administration of the Recovery Act, whereas, OMB Memorandum M-09-21 contains detailed information on the prime recipient and subrecipient reporting requirements under Section 1512 of the Recovery Act. The OMB has also issued Appendix 7 of the March 2009 Compliance Supplement to provide auditors guidance with regard to auditing the Recovery Act funding. The OMB Memoranda referenced can be found at www.whitehouse.gov/omb/memoranda_default and the 2009 compliance supplement can be located at www.whitehouse.gov/omb/circulars. (OMB Circular A-133 – March 2009 Compliance Supplement). Several of the key items discussed in the Memoranda and Compliance Supplement are as follows:

- Recovery Act funds must be tracked and reported to the OMB separately from Non-Recovery Act funds. New awards granted under the Recovery Act may result in a new Catalog of Federal Domestic Assistance (CFDA) number being assigned or the new award may just use an existing program's CFDA number. In any case, Recovery Act funds received either directly from a federal agency or from a pass through entity must be separately identified in the Schedule of Expenditures of Federal Awards by adding an "ARRA -" prefix to the program's name. As such, to comply with the Recovery Act, an organization must ensure they are tracking Recovery Act funding separately from other programs even though Recovery Act funding may have just provided additional funding under an existing program.
- Section 1606 of the Recovery Act imposes the Davis Bacon Act requirement for construction activities potentially increasing the costs of construction due to the wage standards and other regulatory burdens imposed by the Davis Bacon Act. Section 1605 of the Recovery Act also imposes Buy American Requirements for the purchase of certain construction material.
- Prime recipients of the Recovery Act and subrecipients of the funding will be required to submit quarterly reports detailing the financial status of the award and program activities provided in compliance with Section 1512 of the Recovery Act. This quarterly reporting will be due within ten (10) days after the end of the quarter, with reporting requirements to start the quarter ending September 30, 2009, being due ten (10) days after the quarter ends on October 10, 2009. As noted above, the OMB has issued Memorandum M-09-21 which provides a detailed discussion on the reporting requirements of prime recipients and subrecipients of Recovery Act funding. This reporting will require prime recipients to establish controls to ensure that all data is captured internally from subrecipients and certain vendors for reporting to the federal government. Reporting under the Recovery Act primarily focuses on jobs retained or created. Reports will be submitted to the federal government through its official reporting Web site (www.federalreporting.gov).
- To ensure that the Recovery Act funds are properly expended and program objectives are achieved, federal agencies are required to assess the risks related to various programs in order to determine those programs or program activities that are at a higher risk of noncompliance. The Office of Inspector General for many federal agencies has received additional funding through the Recovery Act to carry out monitoring of award recipients and quality control reviews of Single Audits performed by independent auditors. The guidance specifically directs the awarding

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agencies to take steps beyond standard practice to initiate additional oversight mechanisms. The OMB Compliance Supplement requires auditors to presume that programs containing Recovery Act funds are considered higher risk when selecting the major programs for testing. This will likely result in a larger number of federal programs being selected for audit during an organization's Single Audit. To further assist auditors and Recovery Act recipients, the OMB has issued additional guidance and will provide updates to the March 2009 OMB Compliance Supplement.

The OMB has also established a Web site (www.recovery.gov) as a central location for all information and guidance related to the Recovery Act grants. Recovery Act grant opportunities are also published on a central Web site (www.grants.gov).

In preparing for the receipt of Recovery Act funds, organizations can take steps to ensure compliance with grant requirements and welcome the scrutiny of any auditor evaluating the program. The following are a number of steps that organizations can take:

- Thoroughly read grant agreements and identify all compliance requirements applicable to the grant. To further understand a grant's compliance requirements, Part 4 of the OMB Compliance Supplement should be reviewed to determine if a program-specific compliance is available for the grant. An organization should also monitor updates to the OMB Compliance Supplement, including appendices (appendix 7) which provide auditors with a high-level overview of audit considerations related to the Recovery Act. In assessing a program's risk of noncompliance, it is a benefit to understand what the auditors will be focusing on in their audit.
- Evaluate existing internal controls over compliance to determine if additional processes and oversight are needed. Part 6 of the OMB Compliance Supplement provides internal control objectives over compliance requirements and is helpful in assessing an organization's current compliance internal controls.
- Review the grant administrative requirements outlined in OMB Circular A-110 and allowable cost provisions of OMB Circular A-122, especially as they relate to the required support for wages and benefits allocated to federal awards.
- Update the organization's schedule of expenditures of federal awards to include Recovery Act funds received directly from a federal agency or passed through to the organization where the organization is considered a subrecipient. If the organization is the prime recipient of assistance from a federal agency and passes those funds through to another entity, the organization must ensure that the subrecipient monitoring requirements of OMB Circular A-133 are followed. This includes properly notifying the subrecipient in the subaward agreement that a portion of the grant award was funded with Recovery Act funds and having procedures to monitor the subrecipient throughout the grant period.
- Become intimately aware of the quarterly reporting requirements of Section 1512 of the Recovery Act to ensure that data is being captured for the required reporting, especially as it relates to information that may be needed from subrecipients and vendors. When the quarterly report is completed, the organization should retain schedules supporting the data reported. Supplement 2 under M-09-21 provides a "Recipient Reporting Data Model for the Quarter ending September 30, 2009.

The Recovery Act has provided organizations with an opportunity to expand existing programs and receive funding for new programs. The program and audit guidance for grants funded with the Recovery Act continues to be developed. Awareness of compliance requirements and an emphasis on evaluating compliance internal controls will be key factors in successfully administering Recovery Act monies.