

American Recovery and Reinvestment Act (ARRA)



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ARRA Related Requirements

- General Purposes and Principles
- Prohibited Uses
- Registration in DUNS/CCR
- Separate tracking of ARRA funds
- Quarterly Progress Reports
- Buy American
- Prevailing Wages
- Whistleblower Protection

Particular Requirements may vary

- Federal Agencies have taken different approaches in interpreting and applying ARRA's statutory requirements
- Read the award documents carefully, including incorporated references to administrative rules

General Purposes and Principles

- ARRA funds must be spent expeditiously and effectively
- Generally, funds must be obligated within 18 months of award and fully expended within 3 years
- Expectation of full transparency and accountability for expenditures and outcomes

ARRA Requirements in City Contracts

- PBOT –sub-recipient to ODOT NW 23rd Avenue repaving
Contract No. 30000654
- Water Bureau – subrecipient to DEQ Columbia South
Shore Wellfield Improvement Ord. No. 182898
- BPS – Energy Efficiency and Conservation Block Grant –
formula award. Multnomah County IGA Ord. No. 183009
Shore Bank Enterprise Cascadia Grant Agreement
- BPS Clean Diesel City of Salem IGA Ord. No. 183286
Pape' Group Price Agreement No. 31000090
- Overview of Sample 2009 ARRA Contract Provisions
<http://www.portlandonline.com/index.cfm?c=50617&a=256529>

Procurement & Contracting

- Funding
- Grant Agreement finalized
- Bid Specifications
- Contractor Awareness
- Reporting

Prohibition of Use of Funds

- None of the funds appropriated or otherwise made available in the Recovery Act may be used for any casino or other gambling establishment, aquarium, zoo, golf course or swimming pool.

ARRA Prevailing Wage Requirements

- Section 1606 of ARRA provides that “all 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 this Act ... shall be paid [prevailing wages].”

Separate Tracking of ARRA Funds

- Segregated Accounting for Recovery Act funds
- Invoices must clearly indicate what portion of requested payments are for work funded by ARRA dollars
- Preservation of Federal Access to Records for Inspection and Auditing
- Responsibility to Inform Sub-recipients

Buy American

Under Section 1605 of the ARRA, no funds appropriated by the Act may be used for public buildings/works unless “all iron, steel and manufactured goods used... are produced in the U.S.”

Exceptions:

- where the head of the federal agency concerned determines adherence would be “inconsistent with the public interest”,
- iron/steel/manufactured goods not produced in the U.S. in sufficient and available quantities, or
- inclusion of U.S. products would increase overall project cost by 25%

Notice of a waiver of the ARRA Buy American requirements must be noticed and justified in Federal Register.

Other exceptions are where United States is obligation International Treaties

Generally, prime contractors must certify that bids comply with the domestic content requirement. Failure to provide required certification may render a bid ineligible.

Whistleblower Protection

- Section 1553 of ARRA prohibits any private employer or state or local government that receives “covered funds” from retaliating against any employee who discloses, internally or externally, information that the employee reasonably believes constitutes evidence of: (a) improper uses of stimulus funds, including fraud, gross mismanagement of an agency contract or grant; (b) gross waste of covered funds; or, (c) an abuse of authority related to the implementation or use of ARRA funds.
- The substance of Section 1553 must be referenced in all subcontracts, and covered employers must post a notice of the rights and remedies under Section 1533.
- General Poster - <http://tinyurl.com/ARRA-Whistleblower-poster>
- USDOT Inspector General - <http://www.portlandonline.com/index.cfm?c=50617&a=265996>

Reporting

- Who is required to report
 - Prime Recipients who receive Recovery Act funds
 - Prime recipients may delegate certain reporting responsibilities to sub-recipients

Quarterly Reporting

- What reporting is required?
 - Total amount of funds received; and of that, the amount spent on projects and activities
 - A list of projects and activities funded by name to include
 - Description
 - Completion status
 - Estimates on jobs created or retained;
 - Details on sub-awards and other payments

Reporting: Basic requirements for Prime Recipients

- Federal Funding Agency Name
- Award Identification
- Recipient DUNS
- Parent DUNS
- Recipient CCR information
- CFDA number, if applicable
- Recipient account number
- Project/grant period\
- Award type, date, description and amount
- Amount of Federal Recovery Act funds expended to projects/activities
- Activity code and description
- Project description and status
- Job creation narrative and number
- Infrastructure expenditures and rationale, if applicable
- Recipient primary place of performance
- Recipient area of benefit
- Recipient officer names and compensation (Top 5)
- Aggregation of sub-awards less than \$25k; vendor payments less than \$25k, sub-awards to individuals

Reporting: Basic requirements for Sub-recipients

- Sub-recipient DUNS
- Sub-recipient CCR information
- Sub-recipient type
- Amount received by sub-recipient
- Amount awarded to sub-recipient
- Sub-award date
- Sub-award period
- Sub-recipient place of performance
- Sub-recipient area of benefit
- Sub-recipient officer names and compensation (Top 5)

Reporting: Basic requirements for Vendors

- DUNS or Name and zip code of Headquarters
- Expenditure amount
- Expenditure description

Reporting: Basic Requirements for sub-recipient Vendors

- Vendors' DUNS, or Name and zip code of vendor office headquarters
- Sub-recipient vendor payments greater than \$25,000 must be itemized
- Key difference between sub-recipient and vendor

Sub-recipient activities directly execute mission
Vendors provide products or services that indirectly support the mission

Reporting

- ARRA quarterly reporting began October 10, 2009
- Report Due Dates, October 10, January 10, April 10 and July 10
- Reporting is cumulative over the term of the grant/contract/loan, in terms of jobs created and
- Reports are submitted exclusively via www.FederalReporting.gov

Reporting

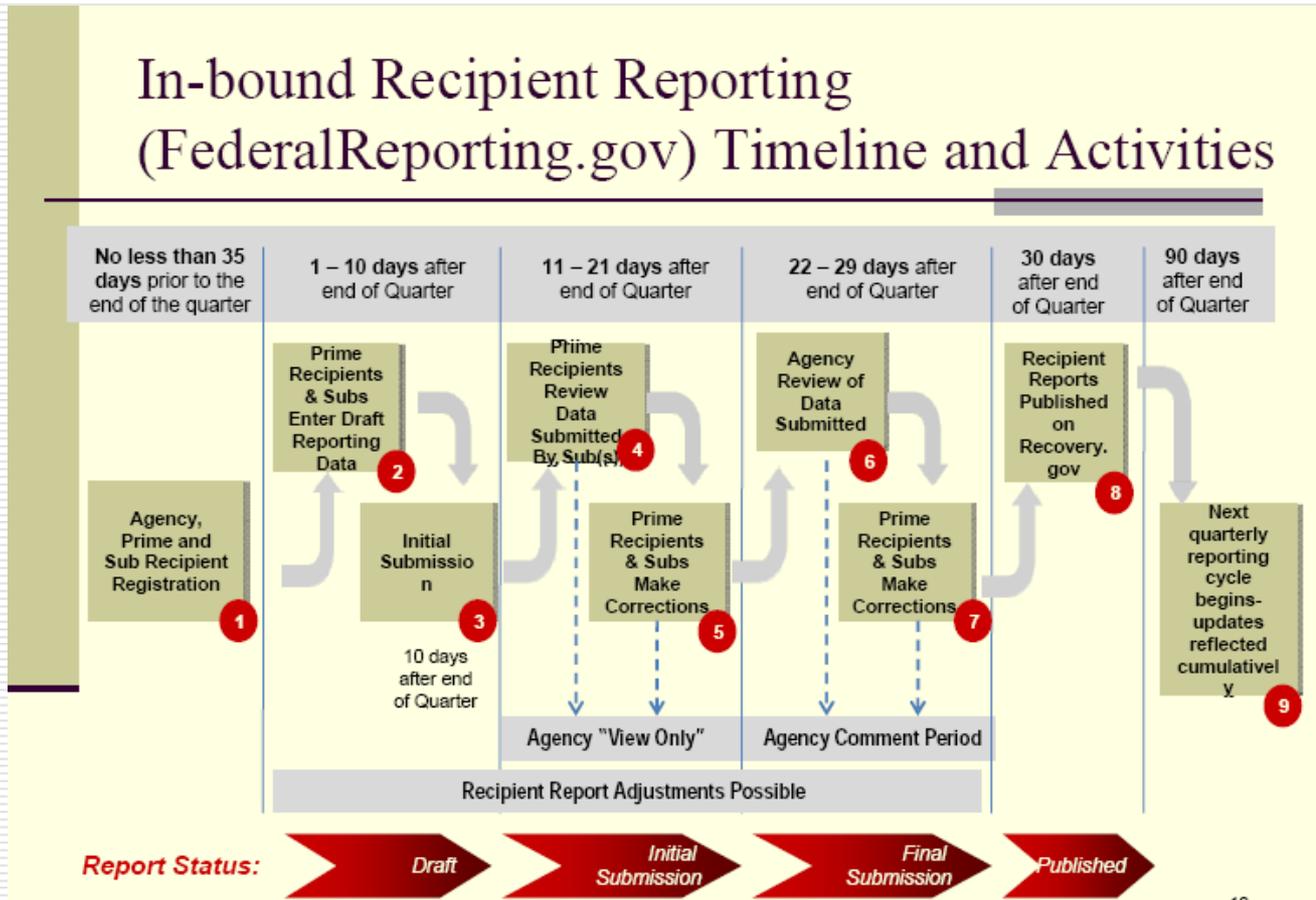
- No waivers to reporting will be granted
- Systematic or chronic reporting problems may result in termination of funding, and/or suspension or debarment of either the recipient, the sub-recipient, or both
- Federal agencies will post information through www.Recovery.gov
- City reporting will be processed through the Central Grants Office using the City ARRA reporting tool.

Reporting on Jobs Creation

- Prime recipients must report on jobs created or retained as a result of ARRA funding, by project or activity.
- Job information is reported as two separate fields – a numeric field and a separate narrative with an expanded description of the job creation and reporting methodology.
- Numeric report of jobs created and retained uses a standard calculation, translating both full and part time employees into “full-time equivalents”, or FTEs. The calculation is performed by adding the total hours worked by all employees in the quarter, and dividing by the total hours in a full-time schedule.
- In some cases recipients will not perform the work themselves, but will distribute the funding via a grant, loan, or contract to another entity. In these cases recipients will provide estimates of the jobs created or retained by those entities.

Reporting

In-bound Recipient Reporting (FederalReporting.gov) Timeline and Activities



Access to Records

- Sections 902 and 1515 of ARRA require that contracts using ARRA funds must include provisions addressing the authority of the U.S. Comptroller General and US Inspector General to:
 1. examine any records of the contractor or any of its subcontractors, or any State or local agency administering such contract, that directly pertain to, and involve transactions relating to, the contract or subcontract; and
 2. interview any officer or employee of the contractor or any of its subcontractors, or of any State or local government agency administering the contract, regarding such transactions.

Reference Resources

- OMB White House ARRA FAQs
http://www.whitehouse.gov/omb/recovery_faqs/
- U.S. Dept. of Labor ARRA Wage and Hour information
<http://www.dol.gov/whd/recovery/index.htm>
- HUD Recovery Act Reporting Overview
<http://portal.hud.gov/portal/page/portal/RECOVERY/Reporting>
- City of Portland's ARRA Compliance Page
<http://www.portlandonline.com/index.cfm?c=50617>