

Here are my initial notes on the update OMB guidance for implementing Recovery Act published April 3rd. I've also incorporated notes from the NASACT summary. I want to draw your attention to elements we need to emphasize for success in providing transparency and accountability to our management of the Recovery funds. Feedback on this is certainly welcomed as we continue to interface with implementing and oversight officials at the Federal level.

Please note that while the majority of the guidance document is directed at the federal agencies, portions of Section 2 relate to the reporting requirements of the prime recipient (for purposes of this discussion that would be the state). Most noteworthy is the requirement that recipient reporting, required by Section 1512 of the Recovery Act be collected centrally at the federal level. Also be aware that individual federal agencies may also be issuing guidance to recipients; however, they are required to immediately post to their agency website and are encouraged to also disseminate the guidance to external stakeholders.

Section 1 General Information

Federal agencies are encouraged to engage state and local governments during the development of any relevant guidance. *This will be the opportunity to voice our opinions and offer direct assistance via various stakeholder groups. The Governor's Grants Office has an opportunity to increase (more so) visibility and provide substantive input in a coordinated manner to grants/contracts policy.*

Section 2 Agency Plans and Public Reporting

- 2.5.1 Impact of Federal Reports on FAADS PLUS and USASpending.gov
- 2.5.2 Award level transaction data is accelerated to 5 days which could potentially mean that the new 10 day turnaround on quarterly reports could also be accelerated
- 2.9.1 Requirements for program-specific data on Federal Infrastructure Investments that would impact Capital grants such as Fire House Construction and State Govt construction projects and any other infrastructure funded via Recovery:
- 2.9.2 Energy Efficient Buildings, Sustainable Design and Construction, Energy Efficient Capital Equipment, Metering (electric, steam, and natural gas), Solar Hot Water
- 2.10 Reports collected from recipients
 - Section 2.10 – Reporting by Prime Recipient of Federal Funding (receives federal funds through grant, cooperative agreement, loan or contract)
 - Prime recipients are responsible for reporting on their own use of funds and that of any sub-awards. Reporting is only required for discretionary appropriations and the details are to be spelled out in the terms and conditions of the grant. States should be prepared to report by July 10; however, the initial statutory deadline is October 10, 2009. Further details on reporting will be available no later than 45 days before the October 10 deadline on www.federalreporting.gov.
- 2.10.1 OMB reserves the right to collect reports down to all sub-tier levels on all data elements stipulated in FFATA
- 2.10.2 Reporting requirements do not apply to funding received through entitlement or other mandatory programs except as specifically required by OMB
- 2.10.3 Timeline: Reports are due no later than 10 days after the calendar quarter. Deadline: July 10 reports (OMB has not determined specific method for collecting centralized reports); deadline: October 10, 2009 reports will cover cumulative data
- 2.13.1 Jobs Reporting: Refer to FAR Part 2.101 FTE's may be used based on aggregate hours worked to ensure temporary or part-time labor is not overstated. Certain recipients and grant programs will calculate according to authorizing legislation of the original grant program such as Dept of Transportation and some Workforce grants.

Section 2.13 – Jobs Created

Prime recipients should provide a description of the employment impact of the Recovery Act funded work, including types of jobs (job titles) and estimate of number of jobs created or retained by project and activity and contract. Only compensated jobs are to be reported. This section provides details on FTE estimates and defines jobs created and jobs retained.

Section 2.14 – Central Collection

Information (reports in accordance with Section 1512) will be collected centrally; however, federal agencies may obtain an exception in limited circumstances. The central federal collection point should be established in time to collect the recipient reports on October 10, 2009.

2.15 Additional Recipient Reporting Requirements

Agencies may require additional information beyond what is required under Section 1512 of the Act; however, the information will be part of the award terms and conditions. This section also notes that OMB holds the authority to require information from recipients for all tiers of sub-awards in accordance with the Federal Funding Accountability and Transparency Act (FFATA). Agencies may request of OMB additional recipient reporting immediately by submitting a recommendation to OMB.

- 2.15.1 Relies on existing terms and conditions through existing authorities (authorizing legislation, CFR's, etc)
- 2.15.2 May collect information from all Federal recipients on all tiers of sub-awards
- 2.16 All States should assign a specific office to oversee Section 1512 data collection to ensure quality, completeness, timeliness of data submissions. (This office should coordinate the oversight functions that would include monitoring and oversight of reconciliations)
- 2.17 Federal agencies are to give the state flexibility in the collection and submittal of required information. It will be up to the state to determine whether a central point within the state will be responsible for submitting the required reports or whether to have individual state agencies report. The state should, however, assign a responsible office to oversee Section 1512 data collection to ensure quality, completeness and timeliness of data submissions. There is no responsibility at the state level when the state is not the prime recipient (i.e. funds that go directly to a locality).
- 2.22 Paperwork Reduction Act – OMB has authorized agencies to use “emergency processing.” This will allow for paper submissions of grant applications and reports should systems malfunctions (such as grants.gov)

Section 3 Governance, Risk Management, and Program Integrity

This section basically reinforces that risk management and mitigation are vital functions that MUST be implemented via an oversight and monitoring program.

Section 4 Budget Execution

NO COM-MINGLING OF RECOVERY AND NON-RECOVERY FUNDS!

Section 5 Grants and Cooperative Agreements

This section provides that agencies should utilize standard practices but also evaluate additional actions in awarding grants. Agencies should continue to award competitively to the maximum extent practicable in meeting the objectives of the act. Note that on existing grants, OMB is discouraging supplements to existing agreements because funds must be tracked and accounted for separately.

OMB is also encouraging federal agencies to begin outreach on the requirement for CCR registration. Keep in mind that in order to register with CCR, a recipient must obtain a Dun and

Bradstreet Universal Numbering System (DUNS) number. This requirement is problematic for states as it is very difficult for the state to manage the numbers.

5.1 Actions beyond standard Practice

5.1.1 Aggressive outreach to potential applicants to begin application planning activities including the process for Central Contractor Registration (CCR) and obtaining/updating/validating Dun and Bradstreet Universal Numbering System (DUNS) number

5.4 Additional oversight requirements for grants such as mandatory field visits, additional case examinations, error measurements, to comply w/grant rules and regulations

5.4.1 Performance management and accountability

5.4.2 Internal controls assessment

5.5 Compliance with existing administrative compliance requirements

5.5.1 OMB Circular A-102, OMB Circular A-110, 2 CFR 215, Grants Management Common Rule; Newly created 2 CFR 176

5.6 Audit Tools

5.6.1 OMB Circular A-133; OMB Circular A-133 Compliance Supplement

Section 6 Contracts

Compliance with FAR and additional requirements such as "Buy American," Davis Bacon Act, and Small Business Authorities in Subparts 19 of the FAR.

Section 7 Loans and Loan Guarantees

Follow reporting requirements of Section 1512 of the Recovery Act.

Appendix 2 – Agency Recovery Related Web Pages

Requirements should possibly be implemented with Recovery.Maryland.gov and related State agency web pages.

Appendix 3 – Data Elements

Currently in the Federal Register for comment. These align with FFATA

Appendix 4 – Risk Considerations

Overarching/Performance; Reporting; Human Capital; Acquisition; Financial; System

Appendix 6 – Agency Risk Template

Appendix 7 – Council on Environmental Quality NEPA Reporting Guidance

Appendix 8 – Interim FAR Rules

Appendix 9 – 2 CFR Part 176

Requirements for Implementing Sections 1512, 1605, and 1606 of the Recovery Act. Pay particular attention to 176.30 (2) definitions of recipient and sub-award.

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