



United States
Department of
Agriculture

Office of the
Assistant
Secretary for
Administration

Departmental
Management

Office of
Procurement
and Property
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Procurement
Operations
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ACQUISITION OPERATING PROCEDURE (AOP)

FEB 6 2013

FROM:

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Head of Contracting Activity Designee

SUBJECT:

AOP No. 9: American Recovery and Reinvestment Act Contracting

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- ◆ **PURPOSE:** The purpose of this Acquisition Operating Procedure (AOP) is to establish contracting guidance to help ensure accountability and reporting needs of proposed contract actions using funds made available by the American Recovery and Reinvestment Act (ARRA). This procedure includes, but not limited to, Notices, Solicitations, Amendments, Contracts, Modifications, Purchase Orders, Task Orders, Delivery Orders, Blanket Purchase Agreements (BPA), BPA Calls, Basic Ordering Agreements (BOA) and BOA Orders.
 - ◆ **REVISIONS:** The AOP removes outdated Authorities and References previously cited, and revises information relating to the Contract Document and Reporting information. This replaces AOP No. 9, dated July 13, 2010.
 - ◆ **AUTHORITIES:** Office of Management and Budget Memoranda, M-10-17, dated 5/4/10, Holding Recipients Accountable for Reporting Compliance under the American Recovery and Reinvestment Act; M-10-34, dated 9/24/2010, Updated Guidance on the American Recovery and Reinvestment Act; M-10-08, dated 12/16/09, Updated Guidance on the American Recovery and Reinvestment Act - Data Quality, Non-Reporting Recipients, and Reporting of Job Estimates; M-10-05, dated 11/30/09, Improving Compliance in Recovery Act Recipient Reporting; and M-11-34, dated 9/15/2011, Accelerating Spending of Remaining Funds from the American Recovery and Reinvestment Act for Discretionary Grant Programs.
 - ◆ **REFERENCES:** References includes, but not limited to, the following Federal Acquisition Regulation (FAR), Agriculture Acquisition Regulation (AGAR), and Office of Procurement and Property Management (OPPM) guidance:
 - FAR 4.605 - Contract Reporting-Procedures
 - FAR 5.704 - Publicizing Pre-Award
 - FAR 5.705 - Publicizing Post-Award
 - FAR 9.103 - Responsible Prospective Contractors-Procedures
 - FAR 9.404 - Debarment, Suspension & Ineligibility-Excluded Parties List System

◆ **PROCEDURES:**

1. All Contracts and/or Agreements awarded prior to implementation of the ARRA of 2009, that potentially utilizes ARRA funding shall be modified bilaterally to include the applicable ARRA provisions and clauses. Any contractors unwilling to execute said modification are ineligible for ARRA awards.
2. Prior to award, the Contracting Officer/Contract Specialist (CO/CS) shall ensure that all Task/Delivery Orders or Calls placed against an existing contract includes all applicable ARRA provisions and clauses.
3. The CO/CS can identify ARRA funded projects' accounting data as shown below. The ten (10) represents the fiscal year and "AA" represents the ARRA appropriation.

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If the accounting for the ARRA funded project is issued by an office/agency other than Departmental Management, the CO/CS shall verify the ARRA accounting with the appropriate office/agency's budget official prior to release of any pre-solicitation documents.

4. **Pre-Award Notices:**

- a. All pre-solicitation notices shall include "**RECOVERY**" as the first word in the "Title" field shown in Federal Business Opportunities (FBO).
- b. The notice shall indicate if the requirement is being funded in Whole or in Part with ARRA funding. Example:

"THIS PROJECT IS A FULLY FUNDED ARRA PROJECT"

or

"THIS PROJECT IS A PARTIALLY FUNDED ARRA PROJECT"

- c. In FBO, the field titled "Is this a Recovery and Reinvestment Act Action," the radio button "YES" must be checked.
- d. If a requirement will be awarded against an existing contract and or agreement, the following statement shall also be included in the FBO notice:

"THIS NOTICE IS FOR INFORMATIONAL PURPOSES ONLY. THIS OPPORTUNITY IS ONLY OPENED TO THOSE AWARDEE(S) UNDER AGREEMENT OR CONTRACT NUMBER (*insert the contract number*)"

5. **Contract Document:**

- a. **Standard Form:** On the first (1st) line of the description field on the Standard Form of the contract and any subsequent modifications, the CO/CS will indicate:

“NOTICE: THIS IS AN AMERICAN RECOVERY & REINVESTMENT ACT (ARRA) FUNDED PROJECT, FEDERALLY FINANCIAL ASSISTANCE – (insert GRANT, LOAN or CONTRACT)”

- b. **Line Item(s):** If multiple sources of funding are used on the contract, the CO/CS will indicate on the header of each line item:

THIS LINE ITEM IS ARRA FUNDED

or

THIS LINE ITEM IS NOT ARRA FUNDED

6. **Solicitation Provisions and Contract Clauses:**

The ARRA solicitations and awards must include the following provisions and clauses as applicable to the requirement:

- 52.203-15 - Whistleblower Protections Under The American Recovery and Reinvestment Of 2009 (June 2010)
- 52.204-11 - American Recovery and Reinvestment Act - Reporting Requirements (Mar 2009)
- 52.212-4 - Contract Terms and Conditions—Commercial Items (June 2010)
- 52.212-5 - Contract Terms and Conditions Required to Implement Statutes or Executive Orders - Commercial Items (June 2010)

- 52.214-26 - Audit and Records - Sealed Bidding (Mar 2009)
- 52.215-2 - Audit and Records—Negotiation (Mar 2009)
- 52.225-21 - Required Use of American Iron, Steel, and Manufactured Goods-Buy American Act-Construction Materials (Mar 2009)
- 52.225-22 - Notice of Required Use of American Iron, Steel, and Other Manufactured Goods - Buy American Act - Construction Materials (Mar 2009)
- 52.225-23 - Required Use of American Iron, Steel, and Other Manufactured Goods - Buy American Act - Construction Materials Under Trade Agreements (Aug 2009)
- 52.225-24 - Notice of Required Use of American Iron, Steel, and Other Manufactured Goods- Buy American Act - Construction Materials Under Trade Agreements (Mar 2009)

7. **Reporting:**

- a. **Recovery.gov:**

(1) The CO/CS shall provide ARRA contractual information of the base contract and any subsequent modifications to the designated ARRA Coordinator in

Transparency and Accountability Reporting Division of Departmental Management/OFCO as requested. This information may be required on a daily, weekly, monthly and quarterly basis. The value reported should only include ARRA dollars. The CO/CS shall review payment information in the Invoice Processing Platform (IPP) system to ensure accurate invoice payment data is being sent to the ARRA Coordinator.

- (2) The CO/CS shall refer to the “American Recovery & Investment Act of 2009 (ARRA) Funds Operating Procedures,” issued by Management Services of Departmental Management, for contractual information to be reported on Recovery.gov.
- (3) The CO/CS does not provide any direct entries into the recovery.gov database system.

b. FederalReporting.gov:

- (1) All ARRA prime recipients are required to report the awards in federalreporting.gov, pursuant to FAR 52.204-11. Failure to report precludes the Contract Recipient from participating in any future Federal government contracts.
- (2) Prime recipient (including subcontractors) are required to place an initial award entry into federalreporting.gov and update the information on a quarterly basis thereafter. The value reported should only include ARRA dollars. The prime recipient may elect to report for the subcontractor(s) or require the subcontractor(s) to report independently.
- (3) The prime recipient’s first (1st) report is due no later than the 10th day after the end of the calendar quarter in which the Contractor received the award. Thereafter, reports shall be submitted, no later than the 10th day after the end of each quarter.
- (4) The CO/CS shall monitor and review all entries, and make comments on any noted errors and/or omissions on all contracts/grants of the prime recipient’s reporting entries.
- (5) The CO/CS shall, within seven (7) calendar days after the prime recipient’ 1st and/or quarterly entries, ensure that the contractor has posted the entries.
- (6) The CO/CS shall, within 23-29 days after the end of the quarter, review and comment (provide an annotation that a review has been conducted) in federalreporting.gov. The CO/CS shall continue this monitoring until such time that the recipient reports as required or the period for entry expires.

8. **Monitoring the Recipient's Reporting Entries:**

- a. The CO/CS shall prior to the 10th day of the recipient's reporting deadline, ensure the prime recipient has submitted the report in federalreporting.gov.
- b. If the report has not been submitted, the CO/CS shall send an "Email" notification to the prime recipient to advise that the reporting requirement is required. Additionally, the notification shall inform the ARRA prime recipient that failure to submit the mandatory report is grounds for ineligibility for future federal awards.
- c. All documentation and correspondence relating to contract monitoring, reviewing and commenting shall be placed in the contract file.
- d. The CO/CS shall insert a screen print of the federalreporting.gov comments in the contract file.
- e. Reporting Timelines and Activities:
 - (1) 1-14 days after end of the quarter, prime recipients AND subcontractors enter draft reporting data OR initial submission determined by the award date.
 - (2) 15-20 days after end of the quarter, is the late submission period for prime recipients and/or subcontractors.
 - (3) 21-22 days after end of the quarter, prime recipients are able to review data submitted by their respective subcontractors AND both prime recipients and subcontractors are able to make corrections.
 - (4) 1-22 days after end of the quarter, the CO/CS will only have view capability.
 - (5) 23-29 days after end of the quarter, CO/CS review and comment period commences; AND prime recipients and subcontractors make any necessary corrections as a result of the CO/CS review comments.
 - (6) 30 days after end of the quarter, recipients' reports are published on recovery.gov.
 - (7) 33-75 days after end of quarter, agency comments on data submitted, prime recipients review data submitted by subcontractors and prime recipients and subcontractor make corrections. Reports may only be corrected during this period.

9. **Award ID Change:**

- a. Changes in the naming convention/formatting or issuing entirely new award(s) number that will not be recognized within the system, the CO/CS shall submit:
 - (1) Inform the ARRA Coordinator of DM/OCFO

(2) Send an email To: Recovery@omb.eop.gov and include:

- Subject: [Agency Name] Request to Change Award ID {*enter the award ID*}
- Email Body must contain:
 - Rational for the Request
 - Program Name
 - Recipient Type (*e.g., state/local government, Federal contractor, etc.*)
 - Number of Reports that will be Affected

b. Upon receipt of OMB's approval to the Change Request, the CO/CS shall be prepared to provide a detailed record that links awards with different ID numbers across reporting quarters.