



April 26, 2018

United States  
Department of  
Agriculture

**ACQUISITION OPERATING PROCEDURE (AOP)**

Office of the  
Assistant  
Secretary for  
Administration

**FROM:** Richard R. Jiron  
Mission Area senior Contracting Official

Departmental  
Administration

**SUBJECT:** AOP No. 9: American Recovery and Reinvestment Act Contracting

Office of  
Procurement and  
Property  
Management

◆ **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.

Procurement  
Operations  
Division

◆ **REFFECTIVE DATE:** This AOP is effective on April 26, 2018.

◆ **REVISIONS:** The Agriculture Building and Facilities and Rental Payments funds for construction, repair and improvement activities appropriated in the ARRA were available until September 30, 2010, (*attached Public Law 111-5, dated February 17, 2009, excerpt*). The agency expended the funds and as a result, this AOP is canceled in its entirety. *References: Added the OIG Audit Recommendations.*

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◆ **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:**

- a. 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

b. **OIG Audit 50703-0001-12, American Recovery and Reinvestment Act (ARRA) Contract Oversight, DM South Building Modernization Project, dated January 29, 2013: Recommendation 2, "Clarify the reporting requirements with actions to be taken when multiple sources of funding are being used on a project in Acquisition Operating Procedure;" and Recommendation 3, "Review and reconcile Recovery Act data, including Prime Recipient data, for accuracy and consistency with information reported in the official financial system, prior to reporting on Recovery.gov."**

◆ **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 (1<sup>st</sup>) 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 (1<sup>st</sup>) 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’s 1<sup>st</sup> 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 10<sup>th</sup> 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.

◆ **EXPIRATION DATE:** This AOP is canceled.

[END]

PUBLIC LAW 111-5—FEB. 17, 2009

123 STAT. 115

Public Law 111-5  
111th Congress

An Act

Making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for the fiscal year ending September 30, 2009, and for other purposes.

Feb. 17, 2009  
[H.R. 1]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “American Recovery and Reinvestment Act of 2009”.

American  
Recovery and  
Reinvestment  
Act of 2009.  
26 USC 1 note.

**SEC. 2. TABLE OF CONTENTS.**

The table of contents for this Act is as follows:

DIVISION A—APPROPRIATIONS PROVISIONS

TITLE I—AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES

TITLE II—COMMERCE, JUSTICE, SCIENCE, AND RELATED AGENCIES

TITLE III—DEPARTMENT OF DEFENSE

TITLE IV—ENERGY AND WATER DEVELOPMENT

TITLE V—FINANCIAL SERVICES AND GENERAL GOVERNMENT

TITLE VI—DEPARTMENT OF HOMELAND SECURITY

TITLE VII—INTERIOR, ENVIRONMENT, AND RELATED AGENCIES

TITLE VIII—DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES

TITLE IX—LEGISLATIVE BRANCH

TITLE X—MILITARY CONSTRUCTION AND VETERANS AFFAIRS AND RELATED AGENCIES

TITLE XI—STATE, FOREIGN OPERATIONS, AND RELATED PROGRAMS

TITLE XII—TRANSPORTATION, HOUSING AND URBAN DEVELOPMENT, AND RELATED AGENCIES

TITLE XIII—HEALTH INFORMATION TECHNOLOGY

TITLE XIV—STATE FISCAL STABILIZATION FUND

TITLE XV—ACCOUNTABILITY AND TRANSPARENCY

TITLE XVI—GENERAL PROVISIONS—THIS ACT

DIVISION B—TAX, UNEMPLOYMENT, HEALTH, STATE FISCAL RELIEF, AND OTHER PROVISIONS

TITLE I—TAX PROVISIONS

TITLE II—ASSISTANCE FOR UNEMPLOYED WORKERS AND STRUGGLING FAMILIES

TITLE III—PREMIUM ASSISTANCE FOR COBRA BENEFITS

TITLE IV—MEDICARE AND MEDICAID HEALTH INFORMATION TECHNOLOGY; MISCELLANEOUS MEDICARE PROVISIONS

TITLE V—STATE FISCAL RELIEF

TITLE VI—BROADBAND TECHNOLOGY OPPORTUNITIES PROGRAM

TITLE VII—LIMITS ON EXECUTIVE COMPENSATION

**SEC. 3. PURPOSES AND PRINCIPLES.**

26 USC 1 note.

(a) STATEMENT OF PURPOSES.—The purposes of this Act include the following:

(1) To preserve and create jobs and promote economic recovery.

(2) To assist those most impacted by the recession.

(3) To provide investments needed to increase economic efficiency by spurring technological advances in science and health.

(4) To invest in transportation, environmental protection, and other infrastructure that will provide long-term economic benefits.

(5) To stabilize State and local government budgets, in order to minimize and avoid reductions in essential services and counterproductive state and local tax increases.

(b) **GENERAL PRINCIPLES CONCERNING USE OF FUNDS.**—The President and the heads of Federal departments and agencies shall manage and expend the funds made available in this Act so as to achieve the purposes specified in subsection (a), including commencing expenditures and activities as quickly as possible consistent with prudent management.

1 USC 1 note.

**SEC. 4. REFERENCES.**

Except as expressly provided otherwise, any reference to “this Act” contained in any division of this Act shall be treated as referring only to the provisions of that division.

**SEC. 5. EMERGENCY DESIGNATIONS.**

(a) **IN GENERAL.**—Each amount in this Act is designated as an emergency requirement and necessary to meet emergency needs pursuant to section 204(a) of S. Con. Res. 21 (110th Congress) and section 301(b)(2) of S. Con. Res. 70 (110th Congress), the concurrent resolutions on the budget for fiscal years 2008 and 2009.

(b) **PAY-AS-YOU-GO.**—All applicable provisions in this Act are designated as an emergency for purposes of pay-as-you-go principles.

## **DIVISION A—APPROPRIATIONS PROVISIONS**

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2009, and for other purposes, namely:

### **TITLE I—AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES**

#### **DEPARTMENT OF AGRICULTURE**

#### **AGRICULTURE BUILDINGS AND FACILITIES AND RENTAL PAYMENTS**

For an additional amount for “Agriculture Buildings and Facilities and Rental Payments”, \$24,000,000, for necessary construction, repair, and improvement activities.

#### **OFFICE OF INSPECTOR GENERAL**

For an additional amount for “Office of Inspector General”, \$22,500,000, to remain available until September 30, 2013, for

subcontractor, grantee, or recipient is an employer; and

(II) any professional membership organization, certification or other professional body, any agent or licensee of the Federal government, or any person acting directly or indirectly in the interest of an employer receiving covered funds; or

(ii) with respect to covered funds received by a State or local government, the State or local government receiving the funds and any contractor or subcontractor of the State or local government; and

(B) does not mean any department, agency, or other entity of the Federal Government.

(5) STATE OR LOCAL GOVERNMENT.—The term “State or local government” means—

(A) the government of each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, or any other territory or possession of the United States; or

(B) the government of any political subdivision of a government listed in subparagraph (A).

#### SEC. 1554. SPECIAL CONTRACTING PROVISIONS.

To the maximum extent possible, contracts funded under this Act shall be awarded as fixed-price contracts through the use of competitive procedures. A summary of any contract awarded with such funds that is not fixed-price and not awarded using competitive procedures shall be posted in a special section of the website established in section 1526.

### TITLE XVI—GENERAL PROVISIONS—THIS ACT

#### RELATIONSHIP TO OTHER APPROPRIATIONS

SEC. 1601. Each amount appropriated or made available in this Act is in addition to amounts otherwise appropriated for the fiscal year involved. Enactment of this Act shall have no effect on the availability of amounts under the Continuing Appropriations Resolution, 2009 (division A of Public Law 110-329).

#### PREFERENCE FOR QUICK-START ACTIVITIES

SEC. 1602. In using funds made available in this Act for infrastructure investment, recipients shall give preference to activities that can be started and completed expeditiously, including a goal of using at least 50 percent of the funds for activities that can be initiated not later than 120 days after the date of the enactment of this Act. Recipients shall also use grant funds in a manner that maximizes job creation and economic benefit.

#### PERIOD OF AVAILABILITY

SEC. 1603. All funds appropriated in this Act shall remain available for obligation until September 30, 2010, unless expressly provided otherwise in this Act.