



OMB Releases Enhanced Recovery Act Reporting Guidance

June 22, 2009 – The Office of Management and Budget (OMB) released additional guidance to assist federal agencies and funding recipients in complying with the reporting requirements of the American Recovery and Reinvestment Act of 2009 (Recovery Act). The enhanced guidelines continue to support the administration’s commitment to “investing Recovery Act dollars with an unprecedented level of transparency and accountability and to drive additional internal controls and reporting requirements among agencies at all levels of government.”

The OMB guidance incorporates public input from previously issued guidance and supplements, and amends and clarifies the previous guidance. The full guidance and supplements can be found at http://www.whitehouse.gov/omb/recovery_default/.

BACKGROUND

Recovery Act funding is designed to create jobs and invest in science, health care, transportation, education and energy efficiency. Monies are being distributed via formula, competitive grants directly from federal agencies or through state and local governments. Each federal agency is required to report quarterly on the use of funds and program outcomes. This new level of reporting will increase administrative burdens on state and local governments and other prime recipients of Recovery Act dollars. Whether government or commercial enterprises, organizations looking to use these funds will need to plan for and address these additional requirements.

This guidance defines the framework and timing for reporting spending data from prime and sub-recipients of grants, loans, tribal agreements, cooperative agreements and other assistance. It establishes a “central reporting solution” at www.FederalReporting.gov where recipients submit reports and the data undergoes a data quality review process. Finally, the guidance provides updated information on reporting job creation and retention estimates.

KEY POINTS

Basic Principles and Requirements of Recovery Act Recipient Reporting

The guidance clarifies that recipient reports are due by the 10th day following each calendar quarter, beginning with the quarter ending September 30, 2009. Federal agencies must make their program reports available to the public by posting them on Recovery.gov by the 30th day after quarter-end. ***Recipient reporting will not be required for the quarter ending June 30, 2009***, but reporting prepared as of September 30 will include all activity from the Recovery Act’s inception — February 17, 2009, through September 30, 2009.

Two types of payments must be included in the recipient reports – payments to sub-recipients and payments to vendors. A vendor is defined as a dealer, distributor, merchant or

other seller providing goods or services required for the conduct of a federal program. The guidance outlines the five characteristics that distinguish a vendor from a sub-recipient. These include:

Providing the goods and services within normal business operations

- 1) Providing similar goods or services to many different purchasers
- 2) Operating in a competitive environment
- 3) Providing goods or services that are ancillary to the operation of the federal program
- 4) Not being subject to compliance requirements of the federal program

Additional data elements were identified for vendor payments when reporting expenditures of more than \$25,000. These include the vendor's Dun and Bradstreet Universal Numbering System (DUNS) number, payment amount and purchase description. A requirement was also added for sub-recipients to report the DUNS number or name and zip code of the vendor's headquarters for payments to vendors in excess of \$25,000.

Two supplements to the guidance provide additional reporting clarifications by identifying programs subject to the reporting requirements in Supplement 1, *List of Programs Subject to Recipient Reporting*, and by defining the reporting data elements in Supplement 2, *Recipient Reporting Data Model*. Notable changes to the data elements are the addition of the Catalog of Federal Domestic Assistance number, recipient/sub-recipient Central Contractor Registration (CCR) number and data fields related to vendor payments.

Prime recipients may delegate reporting to sub-recipients; however, prime recipients remain responsible for the integrity of the reported information. In addition, the prime recipient is responsible for designing and implementing a process that ensures completeness and accuracy of reported information and prevents double counting.

The guidance suggests the OMB is working on conducting a series of small-scale data collection pilots in July.

Federal agencies and recipients are encouraged to develop a common understanding of reporting requirements, data elements, data quality responsibilities, reporting logistics and best practices before the October 10 reporting deadline.

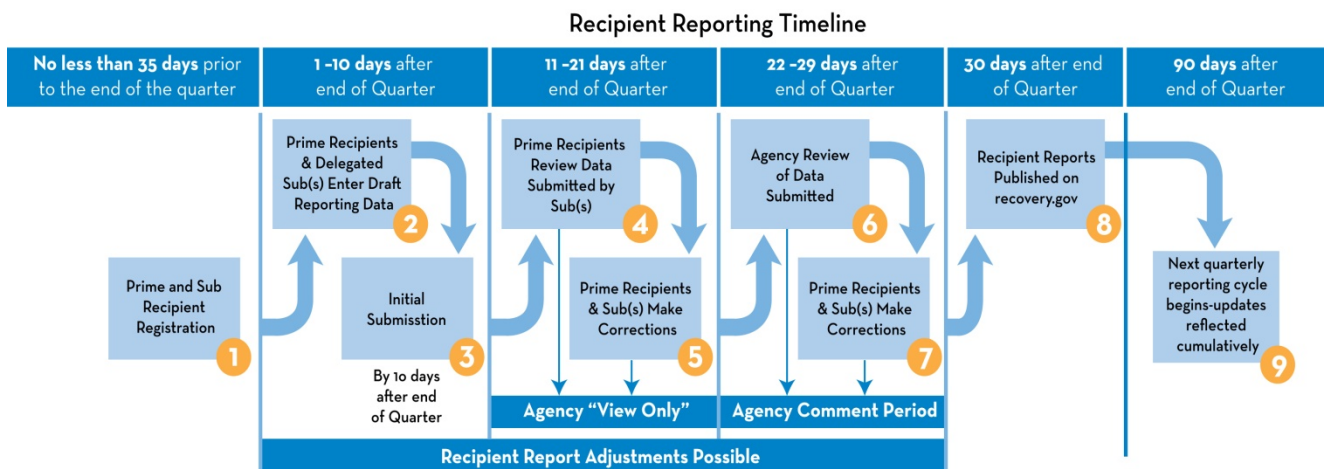
We suggest recipients complete a reporting "dry run" to assess the readiness of the organization and any sub-recipients to meet the data requirements and provide a baseline for an initial compliance risk assessment.

Reporting

Recipient reporting will be submitted to the FederalReporting.gov site. Reporting recipients, delegated sub-recipients and reviewing federal agencies are required to register as authorized parties on www.FederalReporting.gov prior to submitting or reviewing recipient reports. Registration will be available on the site no later than August 26, 2009, and prompt registration is encouraged. To register, prime recipients must be registered in the CCR database and all reporting entities must have a DUNS number. In addition, prime recipients must obtain a Marketing Partner Identification Number (MPIN) in CCR. The MPIN is not required to register at FederalReporting.gov, but is required to enable the prime recipient to submit a report or view sub-recipient reports.

Recipients and delegated sub-recipients must submit their reports by the 10th day following

quarter-end. From the 11th to the 21st day following the end of a quarter, prime recipients will review the submitted reports and perform a data quality review. Prime recipients may correct submitted data during this period, including data submitted by sub-recipients. From the 22nd to the 29th days, federal agencies may review and, if appropriate, comment on the submitted reports. Reports are not editable during this period unless the recipient is notified and the federal agency unlocks the report for corrections. After the 29th day, the report is considered final, and by the 30th day following the end of the quarter, federal agencies will make the report information public by posting it on www.recovery.gov.



From the "Memorandum for the Heads of Departments and Agencies: Implementing Guidance for the Reports on Use of Funds Pursuant to the American Recovery and Reinvestment Act of 2009," Peter Orszag, Director of the Office of Management and Budget, June 22, 2009.

All reports must be submitted electronically by: 1) submitting online using a data entry form; 2) uploading from an Excel spreadsheet template (available at the reporting site) or; 3) using a custom software system extract in XML that can be uploaded to the reporting site. Details for submitting data can be found in Supplement 2.

The guidance and/or the supplements provide detailed steps for completing registration, submission, reviewing, corrections and other reporting activities.

Data Quality Requirements

Data quality reviews required by the guidance are intended to avoid two key problems: 1) material omissions – required data that is either not reported or reported in a manner that doesn't fully inform the public; or 2) significant reporting errors – data that is not reported accurately and results in significant risk the public will be misled or confused.

Federal agencies must ensure consistent understanding and application of these definitions and how data quality reviews are performed within and across agency programs. Prime recipients are ultimately responsible for the quality of the data submitted, data collection, reporting procedures and timeliness of filing.

Although the guidance doesn't mandate a specific methodology for conducting data quality reviews, prime recipients are responsible for establishing controls and processes for ensuring complete, accurate and timely reporting. Federal agencies are responsible for providing advice, programmatic assistance and oversight that augments recipient data quality processes by performing limited reviews intended to identify material omissions or significant reporting errors. Additional oversight and guidance is provided by the OMB, The Recovery

Board and federal agency Inspectors General whose roles are to establish data quality expectations, establish consistent data and technical standards and coordinate any centralized reviews of data quality.

Reporting on Job Estimates by Recipients

The Recovery Act requires two types of job reporting. The first type is quarterly reporting prepared by the Council of Economic Advisors and submitted to Congress. This report details the impact of programs funded through Recovery Act funds on key economic indicators, including employment.

The second type of estimated job-creation reporting is required by recipients of Recovery Act funds and is addressed in the guidance. Two Federal Register notices were published containing recipient reporting requirements for grants, cooperative agreements and loans. The first, *74 FR 14824*, contained proposed data elements and instructions on reporting estimated jobs created and retained. The second, *2 CFR 176.50*, provided interim final reporting guidance, a standard award term and a public comment period that ended June 22, 2009. The final detailed reporting requirements and data entry instructions will be posted on www.FederalReporting.gov.

Two clarifications to previous job estimate reporting are identified in the guidance. The first clarifies the requirement to report the number of jobs created or retained by project and activity or contract. The accompanying description of the employment effect of these activities will be captured in separate data fields — this represents a change from previous guidance. Secondly, recipients now must include job estimates for projects and activities managed by their funding recipients (sub-recipients and vendors) in the aggregate counts and descriptions reported by the (prime) recipient. Data to support job estimates should be obtained directly from the sub-recipients and vendors; however, in limited circumstances recipients may employ a statistical methodology to determine jobs estimates. Supplementary guidance will be issued by the Federal agencies responsible for programs where statistical methodologies are appropriate.

The guidance confirms previously issued reporting requirements including:

- Jobs created or retained are counted only if they result directly from Recovery Act funding, are compensated and performed in the United States or outlying areas.
- A job cannot be counted as both created and retained.
- Counts do not include indirect jobs, induced jobs or support functions. Only those positions directly linked to Recovery Act funds should be included.
- The estimate of the number of jobs created and retained is expressed as full-time equivalents (FTEs) and is calculated by dividing the total number of hours worked in Recovery Act-created or retained jobs divided by the number of hours in a full-time schedule, as defined by the recipient. FTEs are reported cumulatively each quarter. (An alternative calculation is allowed for recipients of assistance agreements that must comply with OMB Circular A-21, *Cost Principles for Educational Institutions*.)
- The descriptive narrative should include a description of the types of jobs created or retained.
- Recipients who have programs with reporting requirements in addition to those required by the Recovery Act must also comply with the additional program or agency reporting requirements.

This guidance for job retention or creation reporting does not apply to Recovery Act funds awarded under federal contracts. Additional guidance on federal government contracts is

forthcoming. The comment period for the interim final rule for reporting job estimates related to contracts closed recently and the final rule is expected to be published in the near future.

IMPACT ON ORGANIZATIONS

The clock is ticking. Given both the expected increase in the flow of Recovery Act dollars and increased reporting and compliance requirements, organizations receiving funds should quickly establish reporting and control mechanisms so they can ensure key requirements for accurate reporting and compliance are met. Entities receiving funds today have slightly more than three months to prepare for this reporting and to validate that processes and controls function as designed.

Note that noncompliance with these requirements is a violation of the award agreement. Per the guidance, the awarding agency may use customary remedial actions to ensure compliance, including withholding funds, termination, or suspension and debarment. In other words, noncompliance may lead to extended payment cycles as compliance and reporting issues are resolved or awards are terminated. In today's economic environment, recipients that pursue Recovery Act funding must meet these requirements to maintain the predictable cash flows and revenue streams anticipated by their Boards of Directors and top executives.

Organizations should take the following actions to prepare for these requirements:

- Establish accounting mechanisms to segregate Recovery Act funds from others
- Design and implement management reporting processes for both financial, job creation and retention and programmatic results
- Conduct a reporting "dry run" during the July or August month-end closing
- Design and implement management processes to ensure compliance with Recovery Act non-reporting requirements, such as Buy American and prevailing wage provisions
- Assess reporting and compliance risks, leveraging data from the "dry run"
- Review Single Audit readiness and address any control weaknesses or issues identified in prior audit reports
- Design and implement internal controls specifically targeted at high-risk reporting or compliance activities

To avoid legal and public relations issues, organizations receiving funds should take steps to address the Recovery Act's reporting and compliance aspects. Conducting a robust risk and reporting readiness assessment and mitigating key findings will enable prime and sub-recipients to meet these requirements efficiently and cost-effectively and limit any potential negative outcomes.

HOW JEFFERSON WELLS CAN HELP

We have extensive experience assisting federal, state and local governmental agencies in meeting grant and other reporting requirements. Our professionals are currently helping a Midwestern state meet specific Recovery Act reporting and risk management requirements, and through the years we've worked closely with numerous states and municipalities on internal control, financial process improvement and reporting initiatives, including engagements that required fast-tracked process implementation.

Our experience creating regulatory compliance and other control structures positions us perfectly to assist organizations in evaluating opportunities and implementing plans to capture Recovery Act funding while managing risks.

We provide risk advisory, tax and finance and accounting services to organizations in the public sector and the energy, financial services, health care, manufacturing and mining industries.

**For additional information, please contact
your local Jefferson Wells office.**

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