EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
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THE DIRECTOR

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M-10-14

MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

FROM: Peter R. Orszag
Director

SUBJECT: Updated Guidance on the American Recovery and Reinvestment Act

The American Recovery and Reinvestment Act of 2009, P.L. 111-5 ("Recovery Act") was signed into law by President Obama on February 17, 2009. As required by Section 1512 of the Recovery Act, recipients have completed reports for two reporting periods on the use of Recovery Act funding. With each new iteration of reporting, the quality of recipient-reported information is improving through enhancements to the FederalReporting.gov solution initiated by the Recovery Accountability and Transparency Board (RATB) as well as through guidance issued by the Office of Management and Budget (OMB) that has clarified the reporting requirements and increased their rigor.

This Memorandum provides guidance to Federal agencies and recipients intended to continue this record of continuous improvement. This Memorandum:

- Highlights the steps Federal agencies must take to review data quality of recipient reports during the new "Continuous Corrections" period initiated by the RATB in January 2010.
- Introduces a new category of data quality issues to be identified and tracked by Federal Agencies, "Administrative/Technical," and provides specific instructions on preventing such issues from occurring.
- Clarifies the process by which Federal agencies obtain OMB approval of proposed program-specific guidance related to recipient reporting.
- Memorializes and extends the current process in place for Federal agencies to provide a master, detailed list of Recovery Act awards to the RATB and OMB.
- Clarifies miscellaneous issues for recipients, such as when a recipient should categorize a Section 1512 report as "final."
- Instructs Federal agencies to take immediate action, as appropriate, to review and act on Single Audit findings.
- Reminds Federal agencies of applicable requirements and flexibilities for States to recover administrative costs and establishes a requirement to update OMB on efforts taken in this area.

Due to the rapidly approaching April reporting period, we are cognizant that Federal agencies and recipients may have questions pertaining to the newly issued guidance. Questions (or requested clarifications) pertaining to this guidance document should be sent to recovery@omb.eop.gov for timely review.

Thank you for your cooperation.

Attachment

1. **What are the minimum actions Federal agencies must take in conducting data quality reviews during the "continuous corrections" period?**

   In January, 2010, the Recovery Accountability and Transparency Board (RATB) modified the process for correcting data in FederalReporting.gov by initiating a "continuous corrections" period. Previously, data in FederalReporting.gov for a given reporting quarter was locked and no longer correctable once the reporting period for that quarter closed and the information was published on Recovery.gov. With a "continuous corrections" period, recipients can correct reported data for the immediately preceding reporting quarter after that reporting quarter has ended and after the data is published on FederalReporting.gov. Since the continuous corrections process began, the RATB has been "refreshing" the data on Recovery.gov approximately every two weeks to reflect these corrections.

   Because recipients are changing information in FederalReporting.gov during the "continuous corrections" period, it is important for Federal agencies to initiate data quality reviews of the corrections being made by recipients during this period. On December 18, 2009, OMB issued M-10-08, *Updated Guidance on the American Recovery and Reinvestment Act – Data Quality, Non-Reporting Requirements, and Reporting of Job Estimates*. M-10-08 provided specific and detailed guidance on Federal agency responsibilities for data quality reviews during the traditional corrections period that occurs during a given reporting period and before recipient-reported data is published on Recovery.gov. The actions Federal agencies must take during the continuous corrections period with respect to data quality reviews are consistent with the requirements in M-10-08. In particular, the data quality plans required under M-10-08 must be updated to reflect planned actions during the continuous correction period. Federal agencies must, at a minimum, conduct a final review of the data upon the close of the continuous corrections period, given that all records are opened and subject to edits and corrections during that time. A specific methodology for the continuous correction period is not required. The Federal agency review must focus on significant reporting errors, material omissions and administrative/technical problems in a manner consistent with their established data quality review processes.

2. **Are "Significant Errors" and "Material Omissions" the only categories for describing issues or problems identified during the data quality review process?**

   No. Previous guidance on this issue identified only the categories of "Significant Error" and "Material Omission" to describe data quality issues. These two categories are intended to focus data quality review efforts on the highest priority issues. During the data quality reviews conducted to date, a third category of data issues emerged – "Administrative/Technical" – which are not appropriately characterized as "Significant Errors" or "Material Omissions." Administrative/Technical matters include, but are not limited to, inadvertent deactivation of reports, duplicate reports, unlinked reports or reports to be deactivated, or technical issues relating to a record identifier. These matters may significantly impact the reliability of the information reported; however, they should not implicate the compliance status of the recipient involved. In some cases these reporting

issues may have been outside the control of the recipient. In other cases, the recipient may have chosen a reasonable approach to reporting the data but the approach resulted in technical challenges for the Federal agency or the RATB to review and aggregate such data.

For administrative/technical problems identified in the standard Federal agency review window (e.g., April 11 – 29 of the upcoming reporting month) or in the continuous correction period, OMB will establish a process through the MAX Community web page (Federal access only) for agencies to submit detailed information on the issue and the adjustment requested.

In an effort to reduce the number of administrative/technical matters, Federal agencies must take the following actions:

- Instruct all recipients submitting subsequent quarterly reports to use the Copy and Copy Forward function. This process will create and preserve a link from the previous quarter's report to the new quarterly report to be submitted. Additional details are found in Chapter 15, Copy Forward and Copy Function of the RATB's In-bound recipient reporting user manual. The RATB user manuals are available online at www.FederalReporting.gov

- Avoid changing Federal agency Award ID's previously provided to recipients in prior quarters. A Federal agency must seek OMB's approval to change or modify Award ID's for which the recipient has already begun to report. This does *not* mean corrections to inaccurately reported Award ID's in recipient reports, but a change in the naming convention/formatting or issuing entirely new award numbers that will not be recognized within the system.

  a.) To request Award ID changes, the Federal agency must send an email to recovery@omb.eop.gov with "[Agency Name] Request to change Award ID's" in the subject line that contains:
      - Rationale for Request
      - Program Name
      - Recipient type (e.g. state/local government, Federal contractor, etc.)
      - Number of reports that will be affected

  b.) Upon OMB approval, the Federal agency must be prepared to provide a detailed record that links awards with different ID numbers across reporting quarters.

3. May Federal agencies post their own program-specific guidance for recipient reporting? How is program-specific guidance cleared by OMB?

Federal agencies are permitted to post and distribute their own guidance for recipient reporting provided that the program-specific guidance does not conflict (in whole or in part) with OMB guidance. All program-specific recipient reporting guidance is subject to OMB review prior to public posting. When a Federal agency issues guidance on the Recovery Act,

the agency must immediately post the guidance on the agency's Recovery Act web page. In addition, the Federal agency must disseminate the guidance, to the maximum extent practical, to a broad array of external stakeholders (e.g., recipients, Governors, State Legislatures, State program offices, local government officials, etc.) and respond promptly to their queries about the guidance. Federal agencies are encouraged to engage State and local governments and other stakeholders during the development of any relevant guidance.

The process for Federal agencies to submit program-specific guidance to OMB is as follows:

- Federal agencies should email recovery@omb.eop.gov and provide the OMB Resource Management Office (RMO) for the Federal agency a copy of the program specific guidance. The document should be provided to OMB before it has been publicly posted or distributed to the intended recipients. The scope of parties subject to the proposed guidance should be referenced within the document.
- OMB will review and verify the compatibility of the proposed program specific guidance with standing OMB guidance.
- If no conflicts exist in between the proposed program-specific guidance and standing OMB guidance, OMB will issue the Federal agency a notice of concurrence.
- If the proposed guidance contradicts standing OMB guidance in whole or in part, the Federal agency is required to make all appropriate changes before official release.
- Please note that the time period required for OMB's review of proposed guidance will vary based upon its length and content. In exceptional circumstances, an agency may request an expedited OMB review.
- Federal agencies should not submit documents for review if they are simply a synopsis of standing OMB guidance.

In addition to the above steps, Federal agencies should remain vigilant of changes, clarifications, and updates to OMB recipient reporting guidance. Should changes in OMB guidance result in the non-conformance with program-specific guidance, it is the responsibility of the Federal agency to update all impacted sections and re-submit the guidance to OMB.

4. What additional steps should Federal agencies take in calculating control totals for its review of non-compliant recipients?

On December 18, 2009, OMB issued M-10-08, *Updated Guidance on the American Recovery and Reinvestment Act – Data Quality, Non-Reporting Requirements, and Reporting of Job Estimates*. M-10-08 established a process for Federal agencies to calculate control totals for the number of awards issued and the total dollars associated with such awards. Subsequent to the issuance of M-10-08, OMB requested Federal agencies submit a detailed list of all awards issued, including information on such award such as date, recipient, amount, etc. This detailed list will be required on a systematic basis consistent with the below requirements. Further, additional instructions on the calculation of control totals are provided below.

Recovery Act Awards List

In order to better assess progress in implementing the Recovery Act, Section 1512 reporting requirements and to assist the RATB in its oversight, the Federal agencies are required to compile a comprehensive list of all awards subject to the Recovery Act, Section 1512. The required award information and associated template is available on the MAX Community (https://max.omb.gov/community/x/OAKiGg) and must be emailed directly to the RATB at awardid@ratb.gov with the subject heading "Agency Award Information." For the reporting period ending March 31, 2010, this transmission must occur no later than March 28, 2010. For all future reporting periods, the transmission must occur no later than five business days prior to the end of the reporting quarter. An update of the award list, to include any corrections as well as awards made in the last 3-5 days of the reporting period, will be provided by the eighth day of each reporting month. The email transmission must also copy the agency's regular OMB RMO contact and recovery@omb.eop.gov.

The Federal agency lists of Recovery awards should include all Recovery Act awards made that have recipient reporting requirements since enactment through the close of business of the day prior to each quarterly submission deadline, the first of which is March 28, 2010.

Calculating Quarterly Control Totals

Each Federal agency will use the known exclusions outlined below in conjunction with its comprehensive Recovery Act award list to establish its control totals (the number of reports expected to be submitted for the quarter), one day prior to the final day of the Federal agency review window, each agency will post the control totals for both *Federal contracts* and *grants, loans and other assistance* to the appropriate page on the MAX Community. The Federal agencies should also be prepared to have control totals for Recovery awards for the following known reporting exclusions upon request.

Known Exclusions from Reporting

- Not required to report, (e.g. loan or grant less than $25,000)
- Federal program exempted from 1512 reporting (e.g. USDA's Single Family Housing loan program)
- Award deobligated
- Award cancelled or terminated
- Extension for "Extraordinary Circumstances" (e.g. Natural disaster)
- Award is classified
- Micropurchases made with the purchase card
- Federal contract, not yet invoiced
- Final report previously submitted to FederalReporting.gov
- Other (if applicable, provide details on why reporting is not expected)

5. **When should a recipient indicate that its Recovery Act, Section 1512 submission is the "Final report?"**

Recipients of Grants, Loans and other Federal Assistance

Recipients that have complied with their reporting requirements will no longer be required to submit Section 1512 reports under the following circumstances:

- The award period has ended; and
- All Recovery funds are received (through draw-down, reimbursement or invoice) and the project status is complete per agency requirements and/or performance measures; or
- The award has been terminated or cancelled.

A recipient will indicate a "Y" in the final report data field in FederalReporting.gov if its report is considered final and there will be no future reports submitted. Indication of a final Section 1512 report does not replace any other closeout procedures required by the recipient or Federal agency.[1]

Recipients of Direct Federal Contracts

A Frequently Asked Question (FAQ) will be posted to the FAQs for Federal Contractors at http://www.whitehouse.gov/omb/recovery_faqs_contractors. These FAQs are also linked under the FAQ tab at FederalReporting.gov.

6. Which of the recipient reporting data fields are a quarterly and which are cumulative?

The Federal agencies and reporting entities should utilize the available guidance at www.FederalReporting.gov, including the reporting templates and the *Recipient Reporting Data Model*. The only field requiring quarterly data is "Number of jobs." Other fields, i.e., "Total amount of payments to Vendors less than $25,000/award" and "Total amount of Sub Awards less than $25,000/award" have a quarterly threshold (below $25,000) for inclusion in the data element, but the amount reported is cumulative for the award.

7. What steps should be taken on Single Audits reports for oversight and accountability of Recovery Act funding?

Single Audit is a key tool used to drive accountability for Federal awards under the Recovery Act. Non-Federal entities (States, local governments, colleges and universities, and non-profit organizations) are required by the Single Audit Act Amendments of 1996 (Single Audit) and OMB Circular A-133 to have an annual audit of their Federal awards, including the Recovery Act programs.

Many non-Federal entities, particularly states, will submit their annual Single Audit by March 30, 2010 (for entities with fiscal year-end June 30, 2009). The Federal Audit Clearinghouse (FAC) processes all Single Audit submissions and will prepare a report that

[1] For more information on administrative procedures please see OMB Circular A-110, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations (http://www.whitehouse.gov/omb/circulars_a110/).

summarizes the audit findings by type of non compliance (i.e., activities allowed or unallowable, allowable costs, eligibility, reporting) for all Recovery Act programs identified by recipients for all single audits with fiscal year ended September 30, 2009 and later.

Federal awarding agencies shall review these reports and take action on them. Actions at a minimum should include the following:

- Expedite review and resolution of audit findings to ensure all findings are resolved within 6 months after the date the FAC shows filing status as complete.
- Focus audit resolution on high risk programs and auditees.
- Analyze audit findings across grantees and programs to identify high risk areas. Use the FAC's special report for Recovery Act programs as a tool to identify areas of weaknesses. (http://harvester.census.gov/sac/).
- Work with recipients of Federal awards to make sure appropriate corrective action plans are developed and implemented to address areas of highest risk for ARRA programs as identified in the previous bullet.
- Consider additional monitoring, inspections, or audits for grantees where Single Audits identified greatest risk.
- Report synopses of highest risk audit findings by major Recovery Act programs to OMB by September 30, 2010.

Due to the importance of the Single Audits and the reliance of Federal agencies on the audit results to monitor the accountability of Recovery Act programs, agencies should not grant any extension request to grantees for fiscal years 2009 through 2011. In order to meet the criteria for a low-risk auditee (OMB Circular A-133 §___.530) in the current year, the prior two years audits must have met the requirements of OMB Circular A-133, including report submission to the FAC by the due date (OMB Circular A-133 §___.320).

For fiscal year 2009, OMB has implemented an internal control project that resulted in early reporting of internal control deficiencies and weaknesses for major Recovery Act programs by 16 volunteer States. Interim reports along with corrective action plans were submitted to the Department of Health and Human Services (the Federal cognizant agency) and OMB by January 31, 2010. Federal agencies should immediately follow-up on weaknesses disclosed by the Single Audit Internal Control Pilot Project and work with the States in implementing the necessary steps in the corrective action plan.

OMB will continue to use the OMB Circular A-133 Compliance Supplement to notify the auditors of specific compliance requirements which should be tested for Recovery Act awards. Thus, Federal agencies should review whether particular areas of the 2011 Compliance Supplement should be updated or revised for issues disclosed in Single Audits. The 2011 Compliance Supplement process starts in August 2010.

Offices of Inspectors General (OIG) should continue to reach out to the auditing profession and provide technical assistance and training as well perform quality control reviews to ensure single audits are properly performed and improper payments and other non-compliance is fully reported. The results of quality control reviews (QCRs) should be reported to Federal agency websites and Recovery.gov.

This guidance only applies to recipients of Federal assistance awards.

8. What steps should be taken on Recipient financial reports of Recovery Act programs?

Under the Federal agency's term and conditions of the Recovery Act programs, when the Federal agency requires the loan and grant recipients to submit an annual financial report, agencies will ensure reports are submitted within the required time from the end of the financial period. Federal agencies should expedite the review of the Recovery Act program reports to verify recipient's compliance with the reporting requirements, monitor its spending pattern and identify any risk areas for that recipient. For any at-risk recipients of Recovery Act funds, Federal agencies should consider immediate steps to correct the deficiencies and weaknesses, including not renewing the grants or terminating the current grant.

This guidance only applies recipients of Federal assistance awards.

9. Can Federal agencies limit the recovery of administrative costs associated with ARRA activities when the State's Statewide Cost Allocation Plan has been approved?

On May 11, 2009, OMB issues M-09-18, *Payments to State Grantees for Administrative Costs of Recovery Act Activities*. M-09-18 provides State and local governments flexibilities to recover administrative costs related to implementing Recovery Act programs and activities in a timely manner. The process is done through the preparation and submission of the Statewide Cost Allocation Plans to the Department of Health and Human Services (HHS), the Federal cognizant agency. The recovery is limited to 0.5 percent of total ARRA funds received and is further restricted by any specific limitations or restrictions imposed by program statutes. (FAQ 4 under "Recovering Administrative Costs" - http://www.whitehouse.gov/omb/recovery_faqs/#rs4)

Once the Statewide Cost Allocation have been reviewed and approved by HHS, Federal agencies should not implement any additional limits or caps that are not based on State administrative cost recovery program statutes or regulations. Federal agencies should report to OMB by April 30, 2010, any additional limits or caps placed on the recovery of administrative costs for ARRA programs and activities. The submission should include the effected ARRA programs, a description of the limits or caps and the basis of the restrictions. The submission should be sent to recovery@omb.eop.gov with the subject heading "ARRA Administrative Costs."

In addition, Section 1552 of the Recovery Act provides Federal agencies the authority to "reasonably adjust limits on administrative expenditures for Federal Awards to help award recipients defray the cost of data collection requirements initiated pursuant to this Act." Federal agencies should report to OMB by April 30, 2010 whether agencies have used this authority to provide State's and local governments relief in the recovery of administrative costs. The submission should include the effected ARRA programs and the adjustments

made under this authority. The submission should be sent to recovery@omb.eop.gov with the subject heading "ARRA Administrative Costs."

This guidance only applies to recipients of Federal assistance awards.

10. What are the next steps for agencies to update their agency and program performance information on Recovery.gov?

As required by previous OMB guidance (M-09-10, M-09-5), each agency developed a performance plan for each Recovery Act program in the months following passage of the Act. The agency plan included the agency's broad Recovery Act goals and how different parts of the agency are coordinating efforts toward successful implementation and monitoring as well as the processes in place for senior managers to regularly review the progress and performance of major programs, including identifying areas of risk and completing corrective actions. The program plan included a description of program funding, objectives, activities, delivery schedule with milestones for major phases of program implementation, performance measures, monitoring and review processes, transparency and accountability procedures, and barriers and solutions to effective implementation. The plans were posted on agency recovery sites as well as on Recovery.gov. Agencies have included performance requirements in their grant and contract agreements and receive information on the results of program projects and activities on an ongoing basis.

Each agency should continue to track progress relative to their plans. Additional guidance on the process for updating performance data on www.Recovery.gov will be provided separately. Updates on key measures and milestones will help provide the public with information on the progress agencies are making as programs are implemented.