AMERICAN RECOVERY & REINVESTMENT ACT (ARRA)

Reporting requirements and other obligations

June 19, 2009
ARRA (or the “stimulus law” or the Recovery Act) was signed into law (Pub.L. 111-5) by President Obama on February 17, 2009. The purposes of the Recovery Act are to:

- Preserve and create jobs and promote economic recovery;
- Assist those most impacted by the recession;
- Provide investments needed to increase economic efficiency by spurring technological advances in science and health;
- Invest in transportation, environmental protection, and other infrastructure that will provide long-term economic benefits; and
- Stabilize state and local government budgets, in order to minimize and avoid reductions in essential services and counterproductive state and local tax increases.
MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

SUBJECT: Transparency and Open Government

My Administration is committed to creating an unprecedented level of openness in Government…

Government should be transparent…
Government should be participatory…
Government should be collaborative…

Barack Obama
ARRA Topics

- Reporting Overview
- Standard Data Elements
- Tracking Jobs Created/Retained
- Unique Business Processes
- Other Compliance Requirements
Recovery and Accountability

Reporting Overview

- The opportunity afforded by the ARRA also carries enhanced accountability and transparency.
  - Grantees must fulfill detailed quarterly budget reporting requirements, consistent with 1512 (c) of the ARRA.
  - Reports will summarize total amount of ARRA funds received that quarter and how those funds were expended.
    - This includes a detailed list of all projects or activities and an estimate of the number of jobs created or retained through those projects and activities.
Recovery and Accountability

Reporting Overview

- Reports will be entered at www.federalreporting.gov (under construction)
- These reports will be publicly available at www.recovery.gov
Recovery and Accountability
Reporting Overview

- Sec. 1512 of the Recovery Act contains the quarterly reporting requirements for federal grantees. Research administrators should be aware that the reporting should be done on a grant-by-grant basis, and thus the project/activity reporting, as required, could become quite time-consuming. It is also clear that the reporting is less about funding information and more about what is accomplished with the funds, including job creation and retention.
ARRA requires recipients to account for, track, monitor, report on, provide for audit of, and closeout ARRA funding separately from non-ARRA awards. ARRA reports will be publicly available at www.recovery.gov. Research administrators are also reminded that individual federal agencies may issue special ARRA terms, so be sure to carefully read applications materials for awards funded under ARRA.
"As required by Section 1512 of the Recovery Act and this guidance, each recipient, as described above, is required to report the following information to the Federal agency providing the award **10 days after the end of each calendar quarter, starting on July 10th.**
Reporting Requirements

*Dates (cont’d)*

- Reporting due dates to the Sponsor
  
  *(10 calendar days after the quarter ends)*

<table>
<thead>
<tr>
<th>Period</th>
<th>Internal Due Date</th>
<th>Sponsor Due Date</th>
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<tr>
<td>April 1 - June 30</td>
<td>July 5th</td>
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<td>July 1 - September 30</td>
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<td>October 1 - December 31</td>
<td>January 5th</td>
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<td>January 1 – March 31</td>
<td>April 5th</td>
<td>April 10th</td>
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Reporting Requirements

Standard Data Elements

The reports will include the following data elements, as prescribed by the Recovery Act:

1. The total amount of recovery funds received from that agency;

2. The amount of recovery funds received that were obligated and expended to projects or activities. This reporting will also include unobligated allotment balances to facilitate reconciliations.
Reporting Requirements

Standard Data Elements (cont’d)

3. A detailed list of all projects or activities for which recovery funds were obligated and expended including:

   a. The name of the project or activity;
   b. A description of the project or activity;
   c. An evaluation of the completion status of the project or activity;
   d. An estimate of the number of jobs created and the number of jobs retained by the project or activity; and
   e. For infrastructure investments made by State and local governments, the purpose, total cost, and rationale of the agency for funding the infrastructure investment with funds made available under this Act, and name of the person to contact at the agency if there are concerns with the infrastructure investment.
4. Detailed information on any subcontracts or subgrants awarded by the recipient to include the data elements required to comply with the Federal Funding Accountability and Transparency Act of 2006 (P.L. 109-282), allowing aggregate reporting on awards below $25,000 or to individuals, as prescribed by the Director of OMB.
The standard term reflect the act’s reporting requirements and requires recipients and their first-tier subrecipients to maintain current registration with the Central Contractor Registration (CCR), as long as they have active ARRA awards.
The jobs reports are submitted in narrative form and are cumulative for each calendar quarter. A brief description of the types of jobs created and retained in the United States and its "outlying areas" may include job titles, broader labor categories, or the recipients’ existing job descriptions, as long as the terms described the general nature of the work. Jobs or positions created are defined as new positions created and filled or previously existing unfilled positions that are filled as a result of ARRA funding.
Jobs or positions retained means those previously existing already-filled positions that are retained as a result of ARRA funding. The caveat contained in both sets of requirements is that a job cannot be reported as both created and retained. What is not clear is whether the jobs created/jobs retained information should be furnished for subrecipients “if known”.
According to the April 3 OMB guidance (Sec. 2.13), “Recipients should report full-time equivalent (FTE) estimates cumulatively created or retained for each calendar quarter, ... based on aggregate hours worked to ensure temporary or part-time labor is not overstated. Grant recipients are also encouraged to clarify in their narrative job description where projects or activities are funded by multiple Federal awards as well as specifying the jobs attributable to Recovery Act funds as part of workforces of sub-recipients.”
### ARRA REPORTING REQUIREMENTS

Statistical Data on ARRA supported New Jobs and Retained Jobs

**Recovery Act Employment Status Report**

**Principal Investigator:** Jane Smith, MD

**College/Academic Unit:** COM

**Department:** Internal Medicine

**Cluster:** Cardio-Metabolic

**Award Title:** The Title of the Grant Goes Here

**Primary Sponsor:** The Sponsor's Name Goes Here

**Sponsor Award #:** SP-08-123456789

**CDU Account #:** G123AB456

**Report Period End Date:** March 31

<table>
<thead>
<tr>
<th>Employee Name</th>
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<th>Retained Job</th>
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**TOTAL** 2 2 1

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1. Any position not already in existence for which ARRA funding support is being requested should be counted as a "job created."

2. Any position already in existence that is currently funded by grants/contracts (soft) funds should be counted as a "job retained" if ARRA funding support is being requested for this position.

3. Any position already in existence that is funded by university (hard-continuing) funds should **not** be counted as a "job created" or a "job retained" even if ARRA funding support is being requested for this position.

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**SIGNATURES REQUIRED:**

**Pl:**

**Date:**

**HR:**

**Date:**

**OGCC:**

**Date:**
Unique Business Processes

Overview

- The unique challenge – accommodating the “separation” and accountability required by ARRA while still requiring a programmatic connection to the parent grant.
Unique Business Processes
Overview (cont’d)

- Unique Award terms for ARRA Grants
  - Will site standard ARRA Terms and Conditions
  - Will also include references to:
    - separate financial reporting;
    - restrictions on re-budgeting and carryover
    - separate close-out
Unique Business Processes
Overview (cont’d)

- No “co-mingling” of ARRA and parent grant $$$ allowed (assuming parent grant is funded with regular NIH appropriation $$)
  - Separate institution accounts required
  - Separate PMS drawdowns
  - No re-budgeting between parent and ARRA
  - No carryover of ARRA balances into the parent
Unique Business Processes

Document Number Schema

- The HHS Payment Management System required all HHS agencies to adopt a unique Document Number Schema for ARRA awards.
- NIH wanted to maintain the integrity of its existing document number schema as much as possible.
- Core schema traditionally used will remain intact; except the last character will be “Z”.
- Example Grant Number = 1 R01 RR123456-01
  ARRA Doc # = RR123456Z
Unique Business Processes
Payment Management System (PMS)

- PMS has established unique “P” accounts for all grantees receiving ARRA funds. *(Regular NIH appropriation $$$ flows to “G” accounts for all grantees)*
- “P” accounts do not permit cash pooling
- Grantees will be required to request advances individually from each ARRA-funded grant
Unique Business Processes
Payment Management System (PMS)

- Existing PMS users will be able to access the “P” accounts using already established login & password
- Questions should be referred to the PMS account representative for California: www.dpm.psc.gov
Unique Business Processes
Re-budgeting/Carryover

- If an ARRA award includes a commitment for an ARRA-funded future year FY2010, grantees will not be able to carryover from the FY2009 budget period into the FY2010 period.
- No carryover allowed through between ARRA funding budget periods and budget periods funded by non-ARRA funds.
Unique Business Processes
Re-budgeting/Carryover (cont’d)

-04 Yr funds **CANNOT** be carried forward into -05; -04 year financially closed
-05 Yr funds **CAN** be carried forward into -06
-06 Yr funds **CANNOT** be carried forward into -07
-04 Yr funds **CANNOT** be carried forward into -07

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<td>5 R01 AI123456-07</td>
<td>RAI123456B</td>
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Unique Business Processes

Closeout

- Separate Financial and Closeout Reports
  Required
  - Separate 272s and FSRs from the Parent
  - Separate Closeout from the Parent; even if the parent continues
  - NIH will be updating eFSR & Closeout systems to accommodate these requirements
Other Compliance Requirements

- Buy American Requirements
- Wage Requirements for Facilities Projects
- Changes to HIPPA Under ARRA
- Single Audit
Other Compliance Requirements

Overview

- The applicant organization certifies in the grant application that it is obligated to comply with the terms and conditions of any resulting grant award.

- Acceptance of a grant award is signified by drawdown of funds which then obligates the grantee to comply with all standard and special terms and conditions of award (e.g., based on statute, regulation, policy, program requirement).
Failure to comply may cause NIH to take one or more enforcement actions, depending on the severity and duration of the non-compliance.
- Enforcement actions may include special conditions, closer monitoring, withholding of support, recovery of funds, suspension, or termination.
Other Compliance Requirements

Buy American Requirements

- The Buy American provisions (Sec. 1605) of the Recovery Act are discussed in Subpart B of OMB’s interim final guidance. ARRA funds may not be used in public works construction, alteration, maintenance, or repair project unless all of the iron, steel, and other manufactured goods are produced in the United States.
Other Compliance Requirements

Buy American Requirements

- There are limited exceptions to this prohibition: the iron, steel, or relevant manufactured goods are not produced in “sufficient and reasonably available quantities and of a satisfactory quantity”; inclusion of these items would increase the overall project cost by more than 25%; or the domestic preference would be “inconsistent with the public interest.” Any exceptions are granted through an agency determination; individual awardees cannot unilaterally grant themselves an exception. There is also an exception for acquisitions that are covered by international free trade agreements.
Subpart C of OMB’s interim final guidance describes the wage rate requirements for ARRA-funded requirements are those that are normally found in construction-type contracts, including compliance with the Davis-Bacon Act (40 U.S.C. 31) requiring payment of the prevailing wage rate as determined by the secretary of the U.S. Department of Labor (Sec. 1606 of the Recovery Act requires the payment of Davis-Bacon Act wage rates to “laborers and mechanics employed by contractors and subcontractors” on ARRA-funded projects.)
Other Compliance Requirements

**HIPAA**

- Universities and academic medical centers that must comply with HIPAA should note the enhanced HIPAA privacy and security provisions contained in the American Recovery and Reinvestment Act. They should also be aware of the prospect for additional requirements affecting research, as the law mandated that the Department of Health and Human Services complete several studies, including a review of data de-identification methods, and required it to issue an annual report on the best practices for security compliance.
A number of important changes to HIPAA requirements occurred under ARRA. For one, the law gave state attorneys general the authority to prosecute civil cases of HIPAA violations and doubled the penalties for HIPAA infractions. Secondly, ARRA essentially made organizations that function on behalf of a HIPAA covered entity, known as business associates, into nearly full-fledged covered entities.
Other Compliance Requirements

**Single Audits**

- One of the main vehicles for ensuring accountability for ARRA funds will be the Circular A-133 single audit. The 2009 Compliance Supplements, in Appendix VII, “Other OMB Circular A-133 Advisories,” has added an advisory devoted to the Recovery Act and how it will impact the single audit process.
According to Subpart D of OMB’s interim final guidance, agencies are required to insert as a standard award term a requirement for awardees to separately identify the expenditures made with ARRA funding in their financial reports required under OMB Circular A-133 and in the A-133 Data Collection Form. This requirement must be flowed down to first-tier subawardees. The special award term that affects single audit reporting has four sections:
Other Compliance Requirements

Single Audits (cont’d)

1. Fund recipients are required to “maintain records that identify adequately the source and application of Recovery Act funds.”

2. Recipients covered by the Single Audit Act and OMB Circular A-133 must identify ARRA award funds on the Schedule of Expenditures of Financial Assistance (SEFA) and the data collection form SF-SAC. On the SEFA, these awards are listed separately from other awards with the prefix “ARRA-” added to the identifying names of the federal program. On the SF-SAC, in Item 9d of Part III, the reporting entity creates separate rows, by CFDA number, and uses the ARRA- prefix as the first character.
3. When the prime makes a subaward with ARRA funds, the prime must identify the funds separately to the subrecipient as ARRA funds and document the federal award number, the CFDA number and the amount of Recovery Act funds in the subaward. If ARRA funds are awarded for an existing program, the prime identifies for the subrecipient which funds are ARRA funds and which funds are from the regular subawards under the existing program.

4. Recipients must require their subrecipients to include on their SEFAs the same information as the prime is required to provide to identify ARRA funding.
References

- OGCC ARRA Website
  - http://www.cdrewu.edu/research/ARRA
- Research Recovery
  - http://www.recovery.gov/
- Office of Management and Budget
- American Recovery & Reinvestment Act 2009
  - http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111_cong_bills&docid=f:h1enr.pdf
- Speaker Pelosi
  - http://www.speaker.gov/newsroom/legislation?id=0273
- American Association for the Advancement of Science Update on the 2009 Stimulus Bill
  - http://www.aaas.org/spp/rd/stim09c.htm
- NIH’s Role in ARRA
  - http://www.nih.gov/about/director/02252009statement_arra.htm
References (cont.)

- Estimates of Job Creation from the American Recovery and Reinvestment Act of 2009 (Council of Economic Advisers)
- Buy American Requirements for Construction Material
- Federal Funding Accountability and Transparency Act of 2006
  - http://www.usaspending.gov/
- Davis-Bacon Act (40 U.S.C . 31)
- HIPAA Privacy and Security Provisions
- 2009 Compliance Supplement
  - http://www.whitehouse.gov/omb/circulars_a133_compliance_09toc/
- 2009 A-133 Compliance Supplement
  - http://www.whitehouse.gov/omb/circulars_a133_compliance_09toc/
Questions?