

Summary of the Office of Management and Budget's *Initial Implementing Guidance for the American Recovery and Reinvestment Act of 2009*¹ – February 26, 2009

The Office of Management and Budget (OMB) recently issued a memorandum titled: *Initial Implementing Guidance for the American Recovery and Reinvestment Act (Recovery Act) of 2009*. Huron Consulting Group professionals have read the document in its entirety and identified the key sections relevant to research operations. The OMB guidance is primarily directed to federal granting agencies, but this guidance provides some advance information as to what may be expected of institutions receiving Recovery Act funds.

[Note: The section references cited below refer to the OMB memorandum.]

Section 1: General Information

Critical agencies' requirements for immediate implementation (1.5)

- Agencies must take measures beyond normal standards when administering grants or contracts under the Recovery Act.
- Reporting, information collection, budget execution, risk management, and other specific actions will be under tighter scrutiny. Agencies are required to provide monthly financial reports for Recovery Act funds.
- Funds provided under the Recovery Act must be clearly distinguishable from non-Recovery Act funds in agency financial, business, and reporting systems.
- Clauses and provisions will be added to contract and grant language to legally obligate recipients to meet the reporting requirements under the Recovery Act.
- Agencies must mitigate risk by addressing and tracking the following areas:
 - Audits and investigation to prevent wasteful spending;
 - Qualified personnel overseeing Recovery Act funds;
 - Competitive awards maximized;
 - Timely award of dollars;
 - Timely expenditure of dollars;
 - Cost overruns minimized; and
 - Improper payments minimized
- Within twenty days of enactment of the Recovery Act (March 7, 2009), agencies shall post funding opportunity announcements on Grants.gov.
- Agencies must include terms and conditions in award documents to collect the required data for reporting Recovery Act funding while identifying opportunities to streamline reporting requirements for recipients.

OMB will issue additional guidance (1.7)

- More detailed and summary guidance will be posted on the OMB website 30-60 days (between March 17 – April 16, 2009) after the enactment (http://www.whitehouse.gov/omb/recovery_default/)

¹This summary includes only specific citations from the guidance, so we recommend that you also refer to the complete document (http://www.whitehouse.gov/omb/assets/memoranda_fy2009/m09-10.pdf) for your particular institution's needs.

Summary of the Office of Management and Budget's *Initial Implementing Guidance for the American Recovery and Reinvestment Act of 2009*¹ – February 26, 2009

Section 2: Agency Plans and Public Reporting

Reporting requirement of recipients of Recovery Act funds (2.9)

- Recipients are defined as any entity that receives Recovery Act funds through grants, loans, or contracts directly from the Federal Government.
- The requirements apply only to the prime non-Federal recipients of these funds and any subawards made by prime recipients.
- These required reports will include the following:
 - The total amount of recovery funds received from that agency
 - The amount of funds that have been obligated and expended as well as unobligated amounts for reconciliation purposes
 - Detailed list of all projects or activities associated with recovery funds, including:
 - Project name
 - Project description
 - Evaluation of the completion status
 - An estimate of the number of jobs created and the number of jobs retained
- The final guidance issued by OMB for Recovery Act funds will provide additional and more detailed reporting instructions.

Agency website requirements (2.12)

- Agencies should dedicate a section of its primary website to Recovery Act activities within a week of the enactment (February 24, 2009).
- Agencies should use a consistent url, i.e., www.agency.gov/recovery.

Section 5: Grants

Agency requirements for competitive grant awards (5.1)

- Agencies should structure grants in alignment with the Recovery Act goals of job creation and preservation.
- Competition will be consistent with prior competitive practices.
- Agencies may consider providing recovery funds to existing grants, including a continuation or renewal grant. Supplements are discouraged.
- Any continuation or renewal funds will need to be separately tracked from previous funding to comply with the Recovery Act reporting requirements.

Agency requirements for the solicitation and evaluation of competitive grants (5.2)

- Within twenty days after enactment (March 7, 2009), agencies shall post funding opportunity announcements to Grants.gov.
- Information about specific requirements (e.g., use of funds, certification, data reporting, performance measures, etc.) should be in the full funding announcement.

¹This summary includes only specific citations from the guidance, so we recommend that you also refer to the complete document (http://www.whitehouse.gov/omb/assets/memoranda_fy2009/m09-10.pdf) for your particular institution's needs.

Summary of the Office of Management and Budget's *Initial Implementing Guidance for the American Recovery and Reinvestment Act of 2009*¹ – February 26, 2009

- The Grants.gov synopsis shall link to the full announcement on the agency website within thirty days of enactment (March 17, 2009).
- Consider weighting selection criteria to favor applicants with demonstrated ability to deliver programmatic result and accountability objectives included in the Recovery Act.

Required use of Grants.gov (5.3)

- The “find” feature should direct applicants to funding opportunities as described in section 5.2.
- The “apply” feature should generally be used but may, in limited circumstances, link from Grants.gov to an on-line application on the agency website.

Agency oversight requirements for grants (5.4)

- Agencies will need to take oversight measures above and beyond standard practices.
- Performance evaluation and review processes should include the recipient’s ability to report periodically, consistent with the Recovery Act requirements.
- Agencies should work closely with their respective Inspector General.

Administrative requirements for grant awards (5.5)

- Agencies are expected to follow the applicable existing administrative requirements, i.e., OMB Circular A-102 or OMB Circular A-110.

Audit requirements for grant awards (5.6)

- Recipients are expected to follow the existing audit requirements, i.e., OMB Circular A-133.
- Agencies will perform risk assessments and determine if certain programs awarded under the Recovery Act will be audited as major programs.
- Offices of Inspector Generals will identify high-risk programs and recipients and will perform priority and faster audits, inspections, and investigations.

Accountability for grant awards (5.7)

- The OMB Circular A-133 Compliance Supplement will be continually updated to provide auditors additional testing requirements for Recovery Act funds.
- Offices of Inspector Generals will work with auditing professionals to provide training and perform quality control reviews.

Additional grant award terms and conditions (5.9)

- Standard terms and conditions on award notices can be used unless they conflict with the requirement of the Recovery Act.
- Agencies must ensure that receipt of funds is contingent on recipients meeting the reporting requirements of the Recovery Act.

¹This summary includes only specific citations from the guidance, so we recommend that you also refer to the complete document (http://www.whitehouse.gov/omb/assets/memoranda_fy2009/m09-10.pdf) for your particular institution’s needs.



Summary of the Office of Management and Budget’s *Initial Implementing Guidance for the American Recovery and Reinvestment Act of 2009*¹ – February 26, 2009

Section 6: Contracts

Agency requirements for contracts (6.1)

- Agencies should obtain maximum practical competition.
- Agencies should expeditiously award contracts with current streamlined flexibilities.
- Current Federal Acquisition Regulation (FAR) should be used, but agencies should try to award fixed price contracts.
- Competitive procedures should be used for new contracts.
- Existing contracts that were previously competitively awarded can be used to obligate funds.

Contract terms and conditions (6.4)

- Special contract provisions will be included for Special Buy American Act requirements, updated reporting requirements, and additional access to contractor records.
- A FAR case is in progress to provide detailed contract requirements.
- Agencies must ensure that receipt of funds is contingent on recipients meeting the reporting requirements of the Recovery Act.

Additional oversight and audit requirements (6.6)

- Agencies will be required to provide periodic reporting that includes:
 - Programmatic progress
 - Qualification and number of required staff
 - Competitive actions
 - Timeliness of awards
 - Expenses and obligations

Summary of Key Dates (2009)

- February 24: Agencies should dedicate a section of its primary website to Recovery Act activities, i.e., www.agency.gov/recovery
- March 7: Agencies shall post funding opportunity announcements on Grants.gov
- March 17: The Grants.gov synopsis shall link to the full announcement on the agency website
- March 17 – April 16: More detailed and summary guidance will be posted to the OMB website (http://www.whitehouse.gov/omb/recovery_default/)

* * * * *

We intend to update this document as more information becomes known about key dates, federal plans, and as the impact on institutions becomes more definitive.

Huron Contact: Shandy Husmann, 312.583.8757, shusmann@huronconsultinggroup.com

Copyright 2009 Huron Consulting Group Inc. Trademarks used in this document are registered or unregistered trademarks of Huron or its licensors.

¹This summary includes only specific citations from the guidance, so we recommend that you also refer to the complete document (http://www.whitehouse.gov/omb/assets/memoranda_fy2009/m09-10.pdf) for your particular institution’s needs.