

ARRA “Stimulus” Weekly Update, May 22, 2009

I. Reporting

Weekly Submissions to UNC-GA. Campuses have been submitting information on ARRA-related proposals, preliminary notices of award (i.e. JIT submissions) or actual awards for several weeks now. The weekly reports are submitted in cumulative form. ***Please note weekly reports starting with the May 21st report date should include the federal award number for any actual awards received. Please add an award number column to the right of the CFDA# column to capture this information.*** The reports should be sent to Sarah Smith, with a copy to Courtney Thornton, on a weekly basis by 12:00 p.m. on Thursday. The submission time coincides with the time frame for submitting materials to be discussed at the UNC-GA Council meeting on Monday mornings. This information will be pulled by UNC-GA from RAMSeS and SPARC by June 1st.

UNC General Administration will launch its redesigned website June 1st. The Office of Research portion of the site will have a stimulus section and the report referenced above will be posted along with the weekly updates, other pertinent documents and links to related agency sites. In the meantime, the weekly report will be published to the current website at the following link: http://intranet.northcarolina.edu/docs/aa/research/ContractsAndGrants/ARRA_5-15-09-1.pdf

State Reporting:

N.C. Office of Economic Recovery and Investment Directives

UNC General Administration has received response from OERI regarding Directive #3 (Contract Provisions for the Procurement of Goods, Services and Construction Projects Including Design Services and Internal Procurement Directives). ***We are pleased to report OERI has determined Directive #3, as well as Directives 1 and 2 will not apply to ARRA funded student financial aid or faculty/campus initiated competitive grants.*** The Directives will apply to any flow through ARRA funding that campuses receive from a state agency or the Governor’s office. The OERI response is attached. Copies of OERI Directives 1 and 2 can be found at the following URL: <http://www.ncrecovery.gov/RecoveryPlan/NCPlan.aspx>. Directive #3 was distributed with the May 7th weekly update.

In order to meet the reporting requirements of the OERI Directives for ARRA flow through funding from state agencies or the Governor’s office, campuses should be able to distinguish those projects funded by state ARRA flow through funds from those funded directly by a federal granting agency. A follow up conference call with the SPARC Post-award Workgroup will be scheduled for June to discuss reporting strategies.

Federal Reporting:

The Office of Management and Budget indicated it will release an update to M09-15 and the ARRA reporting elements within 30-60 days from the early April release. No information has been received to date, but as soon as any information is received, it will be distributed to the SPARC, SPARC Post-Award and ARRA list serves.

Audit/Compliance

The Office of Management and Budget is scheduled to release the latest Compliance Supplement to OMB Circular A-133 in the very near future. A DHHS representative indicated the Supplement would include ARRA funding and that there would likely be several addenda to the Supplement to include new CFDA numbers and the ARRA reporting requirements. The state audit plan for the upcoming year will likely continue to include Student Financial Aid and Research and Development as both clusters will include some level of ARRA funds. More information will be distributed as it becomes available.

III. Agency Activity

Recovery plans are now available via the [recovery.gov](http://www.recovery.gov) website. Federal agencies that have received Recovery Act funds have submitted overall plans detailing how the funds will be applied and managed. To see a particular plan, scroll down, use the drop-down menu, select an Agency, and go to the Agency Recovery Plan page. On this page, you will also be able to access information on specific Agency Program Plans. Agency Plan specifics, such as the Objectives, Benefits to the Public, Types of Programs, and Measure of Performance can be access via the lower drop-down menu. <http://www.recovery.gov/>

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TO: UNC General Administration

FROM: Office of Economic Recovery and Investment

RE: Response to UNC System Observations and Recommendations for OERI Management Directive #3: Contract Provisions for the Procurement of Goods, Services and Construction Projects Including Design Services and Internal Procurement Directives

The Office of Economic Recovery and Investment (OERI) appreciates the observations and recommendations provided by UNC General Administration in its May 18, 2009 memorandum. In response, OERI provides the following guidance and clarification.

I. Categories of ARRA funds likely to be received by UNC

The four categories of ARRA funds that UNC institutions may receive are accurately set forth in your May 18 memorandum:

- (1) student financial aid;
- (2) faculty/institution initiated competitive grants;
- (3) state initiated competitive grants; and
- (4) state allocated ARRA formulaic funds.

The OERI management directives are not applicable to the first two types of funding. Where the institution or persons in the institution receive funds directly from a federal agency, the recipient is responsible for compliance with all ARRA provisions and any other applicable rules and regulations. In reviewing your May 18 memorandum, it appears that many of the concerns outlined therein should be alleviated based on this determination. The chart below provided in Norma Houston's May 6, 2009 memorandum to OERI has been expanded to reflect OERI Directive #3 issued May 5, 2009.

ARRA Funding Category	OSBM/OSC/OERI Directive #1	OERI Directive #1	OERI Directive #2	OERI Directive #3
Student Financial Aid	Does NOT apply	Does NOT apply	Does NOT apply	Does NOT apply
Faculty/Campus Initiated Competitive Grants	Does NOT apply	Does NOT apply	Does NOT apply	Does NOT apply
State Initiated Competitive Grants	DOES apply (if funds are received by UNC)	DOES apply (if funds are received by UNC)	DOES apply (if funds are received by UNC)	DOES apply (if funds are received by UNC)
State Allocated ARRA formulaic funds	DOES apply (if funds are received by UNC)	DOES apply (if funds are received by UNC)	DOES apply (if funds are received by UNC)	DOES apply (if funds are received by UNC)

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II. Observations, Concerns and Recommendations on Application of Certain Provisions of OERI Management Directive #3 to UNC

Current Campus Purchasing Benchmarks and Administrative Code

The ARRA is rooted in transparency and accountability and for that reason a threshold for purchasing was excluded from OERI Directive #3 issued May 5, 2009 (Directive #3). We believe based on our response to (I.) above, that the majority of the 332,423 transactions referenced under (II.) in the May 18 memorandum are outside of the application of Directive #3. The reference to impeding a researcher's ability to obtain goods is not relevant because money received as part of a faculty/institution initiated competitive grant would not be subject to the requirements and oversight of Directive #3 since the funding was direct from the federal agency to the recipient. The institution or individual researcher would bear responsibility for oversight and compliance with the ARRA. The transactions that fall within funding categories (3) and (4) referenced above are subject to the provisions of Directive #3.

Current Term/Convenience Contracts

The ARRA expressly emphasizes competition and requires a competitive bidding process with the opportunity for diverse participation. This provides the rationale for the prohibition in Directive #3 against using current term/convenience contracts. However, the directive also provides that existing term, convenience or agency specific contracts may be used to purchase goods and services with recovery funds with the "specific prior approval of the agency establishing the contract." In some cases blanket approval may be obtained for the use of such contracts if prices and other factors dictate.

Newspaper Advertisement of Formal and Informal Bids, Minority and Women-owned

The ARRA challenges the framework of "business as usual" and emphasizes the need for encouraging participation from a diverse group of contractors. There is no minimum run time for the required advertisements, nor is there a mandate as to which publications must be utilized. OERI believes the requirement to advertise all bid solicitations exceeding \$5000 is reasonable and accomplishes the goals of the federal government in seeking increased participation as set forth in the ARRA.

Design and Construction

The requirement under Directive #3 to use statewide IPS for all solicitations directly relates to the transparency and accountability requirements mandated by the ARRA and discussed in the immediately preceding paragraph. There is clear instruction from the federal government to engage more contractors and to stimulate the economy by creating new jobs from a diverse field of participants.

Historically Underutilized Business

Existing mechanisms for HUB reporting may be utilized to comply with Directive #3 reporting requirements. OERI will accept monthly reports from recovery fund recipients in any format so long as the required information set forth in Attachment 3 to Directive #3 is flagged for review by this office. It is a deliberate process to require this

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information to be submitted to OERI and provides this office with critical data for reporting requirements set forth by the federal government.

III. Requested Clarification

- A. HUB participation
 - a. Existing reporting mechanisms will be accepted by OERI for projects using recovery funds so long as the information requested in Attachment 3 to Directive #3 is flagged for review and the information is submitted directly to OERI.
 - b. The state definition of HUB is the relevant definition for purposes of interpreting Directive #3.
- B. Change orders generally may not be used for construction contracts utilizing recovery funds. Administrative change orders that do not expand the scope of the contract and are needed to complete the original project may be used, however change orders generally are not acceptable under ARRA funded projects.
- C. The primary contractor is responsible for oversight of the immediate subcontractor for compliance with all mandated provisions of the ARRA. The institution will provide oversight to the entities with which it subcontracts directly.
- D. Prohibiting travel outside the service area or county in which the project using recovery funds is located is intended to reduce administrative costs in implementing the projects. The ARRA may specifically provide for travel in a grant award or in other means of funding in which case Directive #3's prohibition against travel would not apply. Additionally, there may be a necessary reason for travel outside of the project's area in which case Directive #3 specifically provides for an exception to be obtained through the agency executing the contract.

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